

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, *ex rel.* W.A. DREW
EDMONDSON, in his capacity as ATTORNEY
GENERAL OF THE STATE OF OKLAHOMA,
et al.

Plaintiffs

vs.

TYSON FOODS, INC., *et al.*

Defendants

05-CV-00329-GKF-PJC

**RESPONSES OF DEFENDANT CAL-MAINE FARMS, INC. TO
STATE OF OKLAHOMA'S MARCH 17, 2009 INTERROGATORIES AND
REQUESTS FOR PRODUCTION**

Defendant, Cal-Maine Farms, Inc., ("Cal-Maine") submits the following Responses to State of Oklahoma's March 17, 2009 Interrogatories and Requests for Production of Documents to Cal-Maine, pursuant to Federal Rules of Civil Procedure 26, 33, and 34.

GENERAL OBJECTIONS:

1. Cal-Maine objects to, and does not agree to subject itself to, the arbitrary and extraordinary "definitions and instructions" described by the State to certain terms as set forth in their March 17, 2009 Interrogatories and Request for Production of Documents propounded to Cal-Maine. To the extent that such terms appear in the Interrogatories and Requests for Production of Documents and are in excess of the requirement of the Federal Rules of Civil Procedure and Orders of the Court, Cal-Maine instead ascribes the ordinary, every day and reasonably, commonly understood meanings



which apply to such terms, and also which comply with the Federal Rules of Civil Procedure. Cal-Maine objects to the definitions to the extent they assume facts not in evidence or related to facts or contentions in dispute in the action. Cal-Maine also specifically objects to the following definitions:

a. The definition of “Poultry Waste” is overly broad, inconsistent with the terminology set forth in the statutes and regulations governing poultry growing operations in the Illinois River Watershed (“IRW”), and includes substances not typically associated with poultry litter.

b. The definition of “Your poultry growing operations” is argumentative, and by virtue of ignoring the legal and factual distinction between Cal-Maine owned and operated facilities (of which there are none in the IRW), and those operations owned and operated by independent contractors, the State seeks for Cal-Maine to admit as a predicate to its responses factual and legal issues in dispute in the lawsuit.

c. The definition of “Run-off” is misleading, overly broad, vague and ambiguous. Cal-Maine objects to the definition as it includes within its scope both the acts of nature and volitional or negligent acts of persons which cannot be characterized by a single term. The term is also ambiguous in that it is unclear whether Plaintiffs are suggesting that a “release” involves the substance they define as “poultry waste,” or whether it also includes chemical or other constituents which comprise some fraction of “poultry waste.” Cal-Maine also objects to the definition in that it employs the term “release,” which has a specific statutory and regulatory meaning, and as such, the definition seeks for Cal-Maine, as a predicate to its responses, to admit factual and legal matters, which are in dispute in the lawsuit.

d. The definition of “Waters of the State” is misleading, overly broad, vague and ambiguous. Cal-Maine objects to this definition as it seeks to categorize privately owned and localized waters as “waters of the State,” which is unsupported by law. Cal-Maine also objects to the definition as it seeks for Cal-Maine, as predicate to its responses, to admit factual and legal matters, which are in dispute in the lawsuit.

2. Each of the following responses are made subject to and without any waiving any objections Cal-Maine may have with respect to the subsequent use of these responses or the documents identified pursuant thereto, and Cal-Maine specifically reserves: (a) all questions as to the privilege, relevancy, materiality, and admissibility of said responses or documents; (b) the right to object to the uses of said responses or the documents identified pursuant thereto in any lawsuit or proceeding on any or all of the foregoing grounds or on any other proper ground; (c) the right to object on any and all proper grounds, at any time, to other discovery procedures involving or related to said responses or documents; and (d) the right, at any time, upon proper showing, to revise, correct or clarify any of the following responses.

3 Cal-Maine objects to each and every request to the extent it seeks or calls for information or the identification of documents which are protected from discovery and privileged by reason of: (a) the attorney-client communication privilege; (b) the “work product” doctrine; (c) the “trial preparation” doctrine; (d) the joint defense of “co-party” privilege; or (e) any other applicable discovery rule or privilege. To the extent Cal-Maine withholds or claims any protection from discovery from any document, Cal-Maine will produce logs of such documents as the document production progresses.

4. Cal-Maine objects to each and every request to the extent it seeks information or the identification of documents concerning any claims or occurrences other than the claims and occurrences set forth in the State's First Amended Complaint for which the State request relief.

5. Cal-Maine objects to the Requests for Production as duplicative of previous document requests served on Cal-Maine. Cal-Maine has produced documents and things responsive to these prior requests for production and, where appropriate, has supplemented its production in accordance with the Federal Rules of Civil Procedure. Accordingly, Cal-Maine has no further obligation to produce documents they have already produced to Plaintiffs.

6. Cal-Maine also incorporates as though fully restated herein all objections and limitations to responses made by every other Defendant to the corresponding requests to admit and request for production.

7. Except as set for the above, the foregoing objections apply to each and every response herein. By specifically incorporating individual General Objections in any response, Cal-Maine expressly does not waive the application of the remainder of the General Objections to such response.

INTERROGATORIES

Interrogatory No. 1: Please identify each instance (including, where available, specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application) in which poultry waste generated at your poultry feeding operations, or at poultry feeding operations under contract with you, has been

applied within the IRW as fertilizer, identifying all witnesses to the application and all documents evidencing it.

Answer: Cal-Maine incorporates the General Objections into its answer to Interrogatory No. 1. Cal-Maine further objects to the interrogatory as vague, overly burdensome, overly broad and not limited in any way with regard to time or scope of information sought. The interrogatory seeks information which Cal-Maine neither tracks nor maintains in the normal course of its business. Cal-Maine also objects to the interrogatory as misleading in that it suggests that the owner of the poultry houses where the “poultry waste” is initially situated, *i.e.*, the independent contract poultry grower, is the individual who makes the ultimate decision as to the location, amount and times for every land application of such “poultry waste.” The State’s interrogatory ignores that third persons within and without the IRW acquire title to “poultry waste” from the poultry growers and make their own decisions about utilization of the “poultry waste” according to their own purposes. Cal-Maine objects to the interrogatory to the extent that the information sought is obtainable from the reports, records and documentation required to be submitted to the State of Oklahoma and its administrative agencies under Oklahoma law by anyone within the IRW who land applies poultry litter as fertilizer and, thus, already within Plaintiffs’ possession and control. Subject to and without waiving the foregoing objections and the General Objections, Cal-Maine does not have knowledge of when poultry litter is applied within the IRW, where it is applied, how much is applied, or the STP for any location before its application.

Interrogatory No. 2: Please identify each instance (including, where available, specific date, specific location, tonnage of waste applied, acreage upon which it was

applied, and STP before application) where poultry waste generated at your poultry feeding operations, or at poultry feeding operations under contract with you, has been land applied within the IRW which as not resulted in run-off or leaching, identifying all witnesses to the application and all documents evidencing it.

Answer: Cal-Maine incorporates its objections and answer to Interrogatory No. 1 as though fully re-stated herein. Cal-Maine incorporates the General Objections, into its answer to Interrogatory No. 2. Cal-Maine further objects as argumentative, overly burdensome and broad, vague and not limited in any way with regard to time or scope of information sought. Plaintiffs do not identify with specificity the runoff or leaching of any particular substance, thereby requiring Cal-Maine to speculate as to the alleged runoff or leaching. Cal-Maine also objects to this interrogatory as it assumes facts not in evidence, and presumes that “run-off or leaching” of “poultry waste”, or some other substance, has occurred in the IRW. Cal-Maine further objects to this interrogatory as it contains a contention that improperly purports to shift the burden of proof from Plaintiffs to Cal-Maine on the issue of whether any “run-off or leaching” of “poultry waster” has occurred. Cal-Maine also objects to the interrogatory as misleading in that it suggests that the owner of the poultry houses where the “poultry waste” is initially situated, *i.e.*, the independent contact poultry grower, is the individual who makes the ultimate decision as to the location, amount and timing for every land of such “poultry waste.” Plaintiffs’ interrogatory ignores that third persons within and without the IRW acquire title to “poultry waste” from poultry growers, and make their own decisions about utilization of the “poultry waste” according to their own purposes. Subject to and without waiving the foregoing objections and the General Objections, Cal-Maine does

not have knowledge of when poultry litter is applied within the IRW, where it is applied, how much is applied, or the STP for any location before its application.

Subject to and without waiving the foregoing objections and its General Objections, Cal-Maine is also not aware that any “poultry waste” land applied by any independent grower formerly under contract with it has resulted in any “run-off or leaching” in the IRW. Representatives of the State of Oklahoma, *see e.g.*, depositions of Teena Gunter or Mike Thralls, have indicated that compliance with Nutrient Management Plans is compliance with Oklahoma law with regard to, among other things, run-off. Plaintiffs have not identified any poultry grower formerly under contract with Cal-Maine who has violated his or her Nutrient Management Plan; therefore, Cal-Maine is not aware of any evidence that any “run-off or leaching” has occurred in the IRW.

REQUESTS FOR PRODUCTION

Request for Production No. 1: Please produce all documents identified in the foregoing interrogatories.

Response; Cal-Maine incorporates the General Objections into its answer to Request for Production No. 1. Cal-Maine incorporates its objections and answer to Interrogatory Nos. 1 and 2 as though fully re-stated herein. Subject to the foregoing objections and the General Objections, to the extent Cal-Maine possesses such information in its business records if at all, it will be contained with the Nutrient Management Plans, which to the extent possessed by Cal-Maine, are included within its previously produced documents to the State.

Request for Production No. 2: Please produce all documents evidencing land application of poultry waste from your poultry feeding operations, or those of your

contract growers in the IRW in which the land application was used as fertilizer, including, but not limited to the specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application.

Response: Cal-Maine herein incorporates its response and objections to Request for Production No. 1 as if fully reinstated herein.

Request for Production No. 3: Please produce all documents evidencing land application of poultry waste from your poultry feeding operations, or those of your contract growers, in the IRW in which the land application of poultry waste has not resulted in any run-off or leaching, including but not limited to the specific date, specific location, tonnage of waster applied, acreage upon which it was applied, and STP before application.

Response: Cal-Maine herein incorporates its response and objections to Request for Production No. 1 as if fully restated herein.

Respectfully submitted,

By:



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Cal-Maine Farms, Inc.

CERTIFICATE OF SERVICE

The undersigned certifies that the above and foregoing document was sent via electronic mail on the 16th day of April, 2009, to the following counsel of record:

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, *ex rel.* W.A. DREW
EDMONDSON, in his capacity as ATTORNEY
GENERAL OF THE STATE OF OKLAHOMA,
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**RESPONSES OF DEFENDANT CAL-MAINE FOODS, INC. TO
STATE OF OKLAHOMA'S MARCH 17, 2009 INTERROGATORIES AND
REQUESTS FOR PRODUCTION**

Defendant, Cal-Maine Foods, Inc., ("Cal-Maine") submits the following Responses to State of Oklahoma's March 17, 2009 Interrogatories and Requests for Production of Documents to Cal-Maine, pursuant to Federal Rules of Civil Procedure 26, 33, and 34.

GENERAL OBJECTIONS:

1. Cal-Maine objects to, and does not agree to subject itself to, the arbitrary and extraordinary "definitions and instructions" described by the State to certain terms as set forth in their March 17, 2009 Interrogatories and Request for Production of Documents propounded to Cal-Maine. To the extent that such terms appear in the Interrogatories and Requests for Production of Documents and are in excess of the requirement of the Federal Rules of Civil Procedure and Orders of the Court, Cal-Maine instead ascribes the ordinary, every day and reasonably, commonly understood meanings

which apply to such terms, and also which comply with the Federal Rules of Civil Procedure. Cal-Maine objects to the definitions to the extent they assume facts not in evidence or related to facts or contentions in dispute in the action. Cal-Maine also specifically objects to the following definitions:

a. The definition of “Poultry Waste” is overly broad, inconsistent with the terminology set forth in the statutes and regulations governing poultry growing operations in the Illinois River Watershed (“IRW”), and includes substances not typically associated with poultry litter.

b. The definition of “Your poultry growing operations” is argumentative, and by virtue of ignoring the legal and factual distinction between Cal-Maine owned and operated facilities (of which there are none in the IRW), and those operations owned and operated by independent contractors, the State seeks for Cal-Maine to admit as a predicate to its responses factual and legal issues in dispute in the lawsuit.

c. The definition of “Run-off” is misleading, overly broad, vague and ambiguous. Cal-Maine objects to the definition as it includes within its scope both the acts of nature and volitional or negligent acts of persons which cannot be characterized by a single term. The term is also ambiguous in that it is unclear whether Plaintiffs are suggesting that a “release” involves the substance they define as “poultry waste,” or whether it also includes chemical or other constituents which comprise some fraction of “poultry waste.” Cal-Maine also objects to the definition in that it employs the term “release,” which has a specific statutory and regulatory meaning, and as such, the definition seeks for Cal-Maine, as a predicate to its responses, to admit factual and legal matters, which are in dispute in the lawsuit.

d. The definition of “Waters of the State” is misleading, overly broad, vague and ambiguous. Cal-Maine objects to this definition as it seeks to categorize privately owned and localized waters as “waters of the State,” which is unsupported by law. Cal-Maine also objects to the definition as it seeks for Cal-Maine, as predicate to its responses, to admit factual and legal matters, which are in dispute in the lawsuit.

2. Each of the following responses are made subject to and without any waiving any objections Cal-Maine may have with respect to the subsequent use of these responses or the documents identified pursuant thereto, and Cal-Maine specifically reserves: (a) all questions as to the privilege, relevancy, materiality, and admissibility of said responses or documents; (b) the right to object to the uses of said responses or the documents identified pursuant thereto in any lawsuit or proceeding on any or all of the foregoing grounds or on any other proper ground; (c) the right to object on any and all proper grounds, at any time, to other discovery procedures involving or related to said responses or documents; and (d) the right, at any time, upon proper showing, to revise, correct or clarify any of the following responses.

3 Cal-Maine objects to each and every request to the extent it seeks or calls for information or the identification of documents which are protected from discovery and privileged by reason of: (a) the attorney-client communication privilege; (b) the “work product” doctrine; (c) the “trial preparation” doctrine; (d) the joint defense of “co-party” privilege; or (e) any other applicable discovery rule or privilege. To the extent Cal-Maine withholds or claims any protection from discovery from any document, Cal-Maine will produce logs of such documents as the document production progresses.

4. Cal-Maine objects to each and every request to the extent it seeks information or the identification of documents concerning any claims or occurrences other than the claims and occurrences set forth in the State's First Amended Complaint for which the State request relief.

5. Cal-Maine objects to the Requests for Production as duplicative of previous document requests served on Cal-Maine. Cal-Maine has produced documents and things responsive to these prior requests for production and, where appropriate, has supplemented its production in accordance with the Federal Rules of Civil Procedure. Accordingly, Cal-Maine has no further obligation to produce documents they have already produced to Plaintiffs.

6. Cal-Maine also incorporates as though fully restated herein all objections and limitations to responses made by every other Defendant to the corresponding requests to admit and request for production.

7. Except as set for the above, the foregoing objections apply to each and every response herein. By specifically incorporating individual General Objections in any response, Cal-Maine expressly does not waive the application of the remainder of the General Objections to such response.

INTERROGATORIES

Interrogatory No. 1: Please identify each instance (including, where available, specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application) in which poultry waste generated at your poultry feeding operations, or at poultry feeding operations under contract with you, has been

applied within the IRW as fertilizer, identifying all witnesses to the application and all documents evidencing it.

Answer: Cal-Maine incorporates the General Objections into its answer to Interrogatory No. 1. Cal-Maine further objects to the interrogatory as vague, overly burdensome, overly broad and not limited in any way with regard to time or scope of information sought. The interrogatory seeks information which Cal-Maine neither tracks nor maintains in the normal course of its business. Cal-Maine also objects to the interrogatory as misleading in that it suggests that the owner of the poultry houses where the “poultry waste” is initially situated, *i.e.*, the independent contract poultry grower, is the individual who makes the ultimate decision as to the location, amount and times for every land application of such “poultry waste.” The State’s interrogatory ignores that third persons within and without the IRW acquire title to “poultry waste” from the poultry growers and make their own decisions about utilization of the “poultry waste” according to their own purposes. Cal-Maine objects to the interrogatory to the extent that the information sought is obtainable from the reports, records and documentation required to be submitted to the State of Oklahoma and its administrative agencies under Oklahoma law by anyone within the IRW who land applies poultry litter as fertilizer and, thus, already within Plaintiffs’ possession and control. Subject to and without waiving the foregoing objections and the General Objections, Cal-Maine does not have knowledge of when poultry litter is applied within the IRW, where it is applied, how much is applied, or the STP for any location before its application.

Interrogatory No. 2: Please identify each instance (including, where available, specific date, specific location, tonnage of waste applied, acreage upon which it was

applied, and STP before application) where poultry waste generated at your poultry feeding operations, or at poultry feeding operations under contract with you, has been land applied within the IRW which as not resulted in run-off or leaching, identifying all witnesses to the application and all documents evidencing it.

Answer: Cal-Maine incorporates its objections and answer to Interrogatory No. 1 as though fully re-stated herein. Cal-Maine incorporates the General Objections, into its answer to Interrogatory No. 2. Cal-Maine further objects as argumentative, overly burdensome and broad, vague and not limited in any way with regard to time or scope of information sought. Plaintiffs do not identify with specificity the runoff or leaching of any particular substance, thereby requiring Cal-Maine to speculate as to the alleged runoff or leaching. Cal-Maine also objects to this interrogatory as it assumes facts not in evidence, and presumes that “run-off or leaching” of “poultry waste”, or some other substance, has occurred in the IRW. Cal-Maine further objects to this interrogatory as it contains a contention that improperly purports to shift the burden of proof from Plaintiffs to Cal-Maine on the issue of whether any “run-off or leaching” of “poultry waster” has occurred. Cal-Maine also objects to the interrogatory as misleading in that it suggests that the owner of the poultry houses where the “poultry waste” is initially situated, *i.e.*, the independent contact poultry grower, is the individual who makes the ultimate decision as to the location, amount and timing for every land of such “poultry waste.” Plaintiffs’ interrogatory ignores that third persons within and without the IRW acquire title to “poultry waste” from poultry growers, and make their own decisions about utilization of the “poultry waste” according to their own purposes. Subject to and without waiving the foregoing objections and the General Objections, Cal-Maine does

not have knowledge of when poultry litter is applied within the IRW, where it is applied, how much is applied, or the STP for any location before its application.

Subject to and without waiving the foregoing objections and its General Objections, Cal-Maine is also not aware that any “poultry waste” land applied by any independent grower formerly under contract with it has resulted in any “run-off or leaching” in the IRW. Representatives of the State of Oklahoma, *see e.g.*, depositions of Teena Gunter or Mike Thralls, have indicated that compliance with Nutrient Management Plans is compliance with Oklahoma law with regard to, among other things, run-off. Plaintiffs have not identified any poultry grower formerly under contract with Cal-Maine who has violated his or her Nutrient Management Plan; therefore, Cal-Maine is not aware of any evidence that any “run-off or leaching” has occurred in the IRW.

REQUESTS FOR PRODUCTION

Request for Production No. 1: Please produce all documents identified in the foregoing interrogatories.

Response; Cal-Maine incorporates the General Objections into its answer to Request for Production No. 1. Cal-Maine incorporates its objections and answer to Interrogatory Nos. 1 and 2 as though fully re-stated herein. Subject to the foregoing objections and the General Objections, to the extent Cal-Maine possesses such information in its business records if at all, it will be contained with the Nutrient Management Plans, which to the extent possessed by Cal-Maine, are included within its previously produced documents to the State.

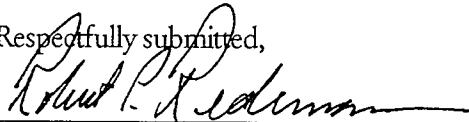
Request for Production No. 2: Please produce all documents evidencing land application of poultry waste from your poultry feeding operations, or those of your

contract growers in the IRW in which the land application was used as fertilizer, including, but not limited to the specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application.

Response: Cal-Maine herein incorporates its response and objections to Request for Production No. 1 as if fully reinstated herein.

Request for Production No. 3: Please produce all documents evidencing land application of poultry waste from your poultry feeding operations, or those of your contract growers, in the IRW in which the land application of poultry waste has not resulted in any run-off or leaching, including but not limited to the specific date, specific location, tonnage of waster applied, acreage upon which it was applied, and STP before application.

Response: Cal-Maine herein incorporates its response and objections to Request for Production No. 1 as if fully restated herein.

Respectfully submitted,
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Attorneys for Cal-Maine Foods, Inc., and
Cal-Maine Farms, Inc.

CERTIFICATE OF SERVICE

The undersigned certifies that the above and foregoing document was sent via electronic mail on the 16th day of April, 2009, to the following counsel of record:

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Robert P. Redemann

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA

PLAINTIFF

VERSUS

NO. 4:05-CV-00329-GKF-SAJ

TYSON FOODS, INC., ET AL.

DEFENDANTS

VIDEOTAPED 30(B)(6) DEPOSITION OF CAL-MAINE FOODS
STEVE STORM
VOLUME II

APPEARANCES NOTED HEREIN

TAKEN AT INSTANCE OF: PLAINTIFF

DATE: OCTOBER 9, 2007

PLACE: YOUNG WILLIAMS, P.A.

210 E. JCAPITOL STREET, SUITE 2000

JACKSON, MISSISSIPPI

TIME: 9:00 a.m.

REPORTED BY: AMANDA M. WOOTTON, CSR, RPR

WOOTTON REPORTING

338 Indian Gate Circle

Ridgeland, Mississippi 39157

(601) 898-9990

Wootton Reporting
601-898-9990



1 Q We might be finished with this part of
2 the deposition except there are four other
3 topics in that notice that Mr. Garren is going
4 cover with you. Let me check a couple of notes
5 here.

6 I have -- I have another question or
7 two, I guess, and I'll be finished.

8 Has Cal-Maine ever taken any steps in
9 the Illinois River Watershed in particular to
10 determine if any of the place that it had
11 been -- was land applied there from 1990 up to
12 2005 had run off the land or leached into the
13 ground water?

14 MR. GRAVES: I'm going to object.
15 You've already asked that question.

16 MR. SANDERS: Asked and answered.

17 A No. Cal-Maine doesn't know
18 specifically any details about the application
19 by the -- by the contract producers.

20 MR. RIGGS: Okay. There are those
21 four other topics, the last four on
22 that notice that Mr. Garren is going
23 to inquire about.

24 MR. GARREN: Let's take a break.

25 BY THE VIDEO REPORTER: Off the

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA, ex rel.)
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OKLAHOMA and OKLAHOMA SECRETARY)
OF THE ENVIRONMENT C. MILES TOLBERT,)
in his capacity as the TRUSTEE FOR NATURAL)
RESOURCES FOR THE STATE OF OKLAHOMA,)

Plaintiff,)

vs.)

05-CV-0329 GKF-SAJ

TYSON FOODS, INC., TYSON POULTRY, INC.,)
TYSON CHICKEN, INC., COBB-VANTRESS, INC.,)
AVIAGEN, INC., CAL-MAINE FOODS, INC.,)
CAL-MAINE FARMS, INC., CARGILL, INC.,)
CARGILL TURKEY PRODUCTION, LLC,)
GEORGE'S, INC., GEORGE'S FARMS, INC.,)
PETERSON FARMS, INC., SIMMONS FOODS, INC.,)
and WILLOW BROOK FOODS, INC.,)

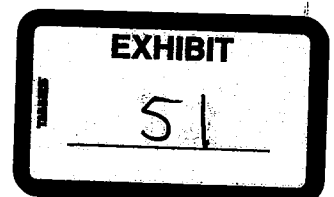
Defendants.)

**RESPONSES OF DEFENDANT, PETERSON FARMS, INC.
TO STATE OF OKLAHOMA'S MARCH 17, 2009
INTERROGATORIES AND REQUESTS FOR PRODUCTION**

Defendant, Peterson Farms, Inc. ("Peterson Farms"), submits the following Responses to State of Oklahoma's March 17, 2009 Interrogatories and Request for Production of Documents to Peterson Farms, pursuant to Federal Rules of Civil Procedure 26, 33 and 34.

GENERAL OBJECTIONS:

1. Peterson Farms objects to, and does not agree to subject itself to, the arbitrary and extraordinary "definitions and instructions" described by the Plaintiffs to certain terms as set forth in their March 17, 2009 Interrogatories and Request for Production of Documents propounded to Peterson Farms, Inc. To the extent that such terms appear in the Interrogatories



and Requests for Production of Documents and are in excess of the requirements of the Federal Rules of Civil Procedure and Orders of the Court, Peterson Farms instead ascribes the ordinary, every day and reasonably, commonly understood meanings which apply to such terms, and also which comply with the Federal Rules of Civil Procedure. Peterson Farms objects to the definitions to the extent they assume facts not in evidence or related to facts or contentions in dispute in the action. Peterson Farms also specifically objects to the following definitions:

- a. The definition of "Poultry Waste" is overly broad, inconsistent with the terminology set forth in the statutes and regulations governing poultry growing operations in the Illinois River Watershed ("IRW"), and includes substances not typically associated with poultry litter.
- b. The definition of "Your poultry growing operations" is argumentative, and by virtue of ignoring the legal and factual distinction between Peterson Farms owned and operated facilities (of which there are none in the IRW), and those operations owned and operated by independent contractors, Plaintiffs seek for Peterson Farms to admit as a predicate to its responses factual and legal issues in dispute in the lawsuit.
- c. The definition of "Run-off" is misleading, overly broad, vague and ambiguous. Peterson Farms objects to the definition as it includes within its scope both the acts of nature and volitional or negligent acts of persons, which cannot be characterized by a single term. The term is also ambiguous in that it is unclear whether Plaintiffs are suggesting that a "release" involves the substance they define as "poultry waste," or whether it also includes chemical or other constituents which comprise some fraction of "poultry waste." Peterson Farms also objects to the definition in that it employs the term "release," which has a specific statutory and regulatory meaning, and as such, the

definition seeks for Peterson Farms, as a predicate to its responses, to admit factual and legal matters, which are in dispute in the lawsuit.

d. The definition of "Waters of the State" is misleading, overly broad, vague and ambiguous. Peterson Farms objects to this definition as it seeks to categorize privately-owned and localized waters as "waters of the State," which is unsupported by law. Peterson Farms also objects to the definition as it seeks for Peterson Farms, as a predicate to its responses, to admit factual and legal matters, which are in dispute in the lawsuit.

e. Peterson Farms sets forth the preceding objections to the terms defined by Plaintiffs in their Requests to Admit and for Production, but acknowledges that the Court overruled similar objections set forth by Peterson Farms to Plaintiffs' April 20, 2007 Requests, and that the Court's ruling is embodied in its Order dated October 24, 2007 [Dkt. No. 1336]. Accordingly, Peterson Farms states the foregoing objections to said terms in order to preserve its position with regard to Plaintiffs definitions; however, Peterson Farms' Responses are not submitted subject thereto.

2. Each of the following responses are made subject to and without waiving any objections Peterson Farms may have with respect to the subsequent use of these responses or the documents identified pursuant thereto, and Peterson Farms specifically reserves: (a) all questions as to the privilege, relevancy, materiality, and admissibility of said responses or documents; (b) the right to object to the uses of said responses or the documents identified pursuant thereto in any lawsuit or proceeding on any or all of the foregoing grounds or on any other proper ground; (c) the right to object on any and all proper grounds, at any time, to other discovery procedures involving or related to said responses or documents; and (d) the right, at any time, upon proper showing, to revise, correct or clarify any of the following responses.

3. Peterson Farms objects to each and every request to the extent it seeks or calls for information or the identification of documents which are protected from discovery and privileged by reason of: (a) the attorney-client communication privilege; (b) the "work product" doctrine; (c) the "trial preparation" doctrine; (d) the joint defense or "co-party" privilege; or (e) any other applicable discovery rule or privilege. To the extent Peterson Farms withholds or claims any protection from discovery from any document, Peterson Farms will produce logs of such documents as the document production progresses.

4. Peterson Farms objects to each and every request to the extent it seeks information or the identification of documents concerning any claims or occurrences other than the claims and occurrences set forth in Plaintiffs' First Amended Complaint for which Plaintiffs request relief.

5. Peterson Farms objects to the Interrogatories as each and every one of them exceeds the number of interrogatories allowed under Federal Rule of Civil Procedure 33(a): On April 21, 2006, Plaintiffs served one (1) interrogatory on Peterson Farms. On March 2, 2007, Plaintiffs served then (10) interrogatories on Peterson Farms. On September 13, 2007, Plaintiffs served fourteen (14) interrogatories on Peterson Farms. On December 31, 2007, Plaintiffs served four (4) interrogatories on Peterson Farms. On April 11, 2008, Plaintiffs served six (6) interrogatories on Peterson Farms. Thus, prior to these Interrogatories and without leave of Court or otherwise stipulated, Plaintiffs have served thirty-five (35) interrogatories on Peterson Farms, which exceeds the number authorized by Rule 33(a). Moreover, Peterson Farms objects to the Interrogatories as duplicative of interrogatories served on Peterson Farms on March 2, 2007 (Interrogatory No. 2) and September 13, 2007 (Interrogatory Nos. 1 and 2); Peterson Farms

incorporates by reference as fully stated herein its answers and objections to the aforementioned interrogatories.

6. Peterson Farms objects to the Requests for Production as duplicative of document request served on Peterson Farms on or about July 10, 2006; March 2, 2007; and September 13, 2007. Peterson Farms has produced documents and things responsive to these prior requests for production and, where appropriate, has supplemented its production in accordance with the Federal Rules of Civil Procedure. Accordingly, Peterson Farms has no further obligation to produce documents it has already produced to Plaintiffs. Peterson Farms incorporates by reference as fully stated herein its answers and objections to the aforementioned interrogatories.

7. Peterson Farms also incorporates as though fully restated herein all objections and limitations to responses made by every other Defendant to the corresponding requests to admit and request for production.

8. Except as set forth above, the foregoing objections apply to each and every response herein. By specifically incorporating individual General Objections in any response, Peterson Farms expressly does not waive the application of the remainder of the General Objections to such response.

Interrogatories

Interrogatory No. 1: Please identify each instance (including, where available, specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application) in which poultry waste generated at your poultry feeding operations, or at poultry feeding operations under contract with you, has been land applied within the IRW as fertilizer, identifying all witnesses to the application and all documents evidencing it.

Answer: Peterson Farms incorporates the General Objections, including but not limited to Number 5, into its answer to Interrogatory No. 1. Peterson further objects to the interrogatory as vague, overly burdensome, overly broad and not limited in any way with regard to time or scope of information sought. The interrogatory seeks information which Peterson Farms neither tracks nor maintains in the normal course of its business. Peterson Farms also objects to the interrogatory as misleading in that it suggests that the owner of the poultry houses where the "poultry waste" is initially situated, *i.e.*, the independent contract poultry grower, is the individual who makes the ultimate decision as to the location, amount and timing for every land application of such "poultry waste." Plaintiffs' interrogatory ignores that third persons within and without the IRW acquire title to "poultry waste" from the poultry growers, and make their own decisions about utilization of the "poultry waste" according to their own purposes. Peterson Farms objects to the interrogatory to the extent that the information sought is obtainable from the reports, records and documentation required to be submitted to the State of Oklahoma and its administrative agencies under Oklahoma law by anyone within the IRW who land applies poultry litter as fertilizer and, thus, already within Plaintiffs' possession and control.¹ Plaintiffs Peterson Farms also objects to the extent the interrogatory would require Peterson Farms to research and compile information from documents, *i.e.*, animal waste management plans and nutrient management plans (hereinafter "Nutrient Management Plans") issued to its former contract growers by the States of Oklahoma and Arkansas, previously produced to Plaintiffs. Subject to and without waiving the foregoing objections and the General Objections, Peterson

¹ Notably, in their filing at Dkt. #1963, Plaintiffs concede throughout their brief that the Oklahoma Department of Agriculture, Food & Forestry, which Plaintiffs' purport to represent in this lawsuit, maintains these Nutrient Management Plans in its files and these plans contain the information that Plaintiffs now seek from Peterson Farms in these interrogatories. *See, e.g.*, Dkt. #1963, at 8-9; Dkt. #1963-3, at 4-26 (attaching the Nutrient Management Plan for W.A. Saunders, who was formerly under contract with Peterson Farms to raise poultry).

Farms does not have knowledge of when poultry litter is applied within the IRW, where it is applied, how much is applied, or the STP for any location before its application.

Interrogatory No. 2: Please identify each instance (including, where available, specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application) where poultry waste generated at your poultry feeding operations, or at poultry feeding operations under contract with you, has been land applied within the IRW which has not resulted in any run-off or leaching, identifying all witnesses to the application and all documents evidencing it.

Answer: Peterson Farms incorporates its objections and answer to Interrogatory No. 1 as though fully re-stated herein. Peterson Farms incorporates the General Objections, including but not limited to Number 5, into its answer to Interrogatory No. 2. Peterson Farms further objects as argumentative, overly burdensome and broad, vague and not limited in any way with regard to time or scope of information sought. Plaintiffs do not identify with specificity the runoff or leaching of any particular substance, thereby requiring that Peterson Farms speculate as to the alleged runoff or leaching. Peterson Farms also objects to this interrogatory as it assumes facts not in evidence, and presumes that “run-off or leaching” of “poultry waste”, or some other substance, has occurred in the IRW. Peterson Farms further objects to this interrogatory as it contains a contention that improperly purports to shift the burden of proof from Plaintiffs to Peterson Farms on the issue of whether any “run-off or leaching” of “poultry waste” has occurred. Peterson Farms also objects to the interrogatory as misleading in that it suggests that the owner of the poultry houses where the “poultry waste” is initially situated, *i.e.*, the independent contract poultry grower, is the individual who makes the ultimate decision as to the location, amount and timing for every land application of such “poultry waste.” Plaintiffs’

interrogatory ignores that third persons within and without the IRW acquire title to "poultry waste" from the poultry growers, and make their own decisions about utilization of the "poultry waste" according to their own purposes. Subject to and without waiving the foregoing objections and the General Objections, Peterson Farms does not have knowledge of when poultry litter is applied within the IRW, where it is applied, how much is applied, or the STP for any location before its application.

Subject to and without waiving the foregoing objections and its General Objections, Peterson Farms is also not aware that any "poultry waste" land applied by any independent grower formerly under contract with it has resulted in any "run-off or leaching" in the IRW. Representatives of the State of Oklahoma, *see, e.g.*, depositions of Teena Gunter and Mike Thralls, have indicated that compliance with Nutrient Management Plans is compliance with Oklahoma law with regard to, among other things, run-off. Plaintiffs have not identified any poultry grower formerly under contract with Peterson Farms who has violated his or her Nutrient Management Plan; therefore, Peterson Farms is not aware of any evidence that any "run-off or leaching" has occurred in the IRW.

Requests for Production

Request for Production No. 1: Please produce all documents identified in the foregoing interrogatories.

Response: Peterson Farms incorporates the General Objections, including but not limited to Number 6, into its answer to Request for Production No. 1. Peterson Farms incorporates its objections and answer to Interrogatory Nos. 1 and 2 as though fully re-stated herein. Subject to the foregoing objections and the General Objections, to the extent Peterson Farms possesses such information in its business records, it will be contained with the Nutrient

Management Plans, which to the extent possessed by Peterson Farms, are included within its previously produced growers' files at PFIRWP-1 through 9965, 9992 through 245307, 24437 through 24457, 24943 through 27874, and 27883 through 62653.

Request for Production No. 2: Please produce all documents evidencing land application of poultry waste from your poultry feeding operations, or those of your contract growers, in the IRW in which the land application was used as fertilizer, including but not limited to the specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application.

Response: Peterson Farms herein incorporates its response and objections to Request for Production No. 1 as if fully restated herein.

Request for Production No. 3: Please produce all documents evidencing land application of poultry waste from your poultry feeding operations, or those of your contract growers, in the IRW in which the land application of poultry waste has not resulted in any run-off or leaching, including but not limited to the specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application.

Response: Peterson Farms herein incorporates its response and objections to Request for Production No. 1 as if fully restated herein.

Respectfully submitted,

By /s/ Philip D. Hixon

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I certify that on the 16th day of April, 2009, I electronically transmitted the attached document to the following ECF registrants:

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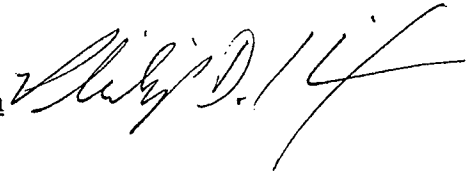
I also hereby certify that I served the attached documents by United States Postal Service, proper postage paid, on the following who are not registered participants of the ECF System:

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NATURAL RESOURCES COMMISSION**

/s/ Philip D. Hixon



UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, et al.)	
)	
Plaintiffs,)	
)	
vs.)	4:05-cv-00329-GKF-SAJ
)	
TYSON FOODS, INC., et al.,)	
)	
Defendants.)	

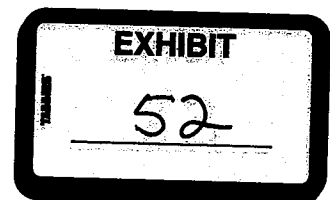
**TYSON FOODS, INC.'S RESPONSES TO THE
STATE OF OKLAHOMA'S INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS OF MARCH 17, 2009**

Defendant TYSON FOODS, INC. (hereinafter referred to as "Defendant" or "Tyson Foods") submits its Responses to the State of Oklahoma's Interrogatories and Requests for Production of Documents of March 17, 2009. Tyson Foods submits these answers and responses for itself and not for any other person or entity.

INTERROGATORIES

INTERROGATORY NO. 1: Please identify for each instance (including, where available, specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application) in which poultry waste generated at your poultry feeding operations, or at poultry feeding operations under contract with you, has been land applied within the IRW as fertilizer, identifying all witnesses to the application and all documents evidencing it.

RESPONSE TO INTERROGATORY NO. 1: Objection. Interrogatory No. 1 is untimely. Additionally, the State of Oklahoma has exceeded the number of interrogatories allowed under Federal Rule of Civil Procedure 33(a)(1). Plaintiffs have previously served a total of 26 interrogatories upon Defendant Tyson Foods, Inc.



Further, Interrogatory No. 1 seeks information which is the subject of previously served and answered interrogatories, requests for production, and requests for admission. *See* July 10, 2006 Set of Requests for Production, RFP Nos. 13-14 and 58-59 and responses thereto, including documents Bates numbered TSN88893SOK – TSN88943SOK, TSN88945SOK – TSN88949SOK, TSN89062SOK – TSN89293SOK, TSN89502SOK – TSN89515SOK, TSN89579SOK – TSN89656SOK, TSN89662SOK – TSN89664SOK, TSN89674SOK – TSN89681SOK, TSN89682SOK, TSN89690SOK – TSN107695SOK, TSN112595SOK – TSN115598SOK, TSN112603SOK, TSN112608SOK – TSN112610SOK, TSN112625SOK, TSN113738SOK – TSN113739SOK, TSN113898SOK – TSN113891SOK, TSN113935SOK – TSN113936SOK, TSN114364SOK – TSN114378SOK, TSN114549SOK – TSN114545SOK, TSN114670SOK, TSN114718SOK – TSN114725SOK, TSN114727SOK – TSN114730SOK, TSN117054SOK – TSN117074SOK, TSN117317SOK – TSN117327SOK, TSN117349SOK – TSN117372SOK, TSN118075SOK, TSN118083SOK – TSN118084SOK, TSN118145SOK – TSN118148SOK, TSN118145SOK – TSN118148SOK, TSN121263SOK – TSN121266SOK, TSN121505SOK – TSN121509SOK, TSN121810SOK – TSN121826SOK, TSN121984SOK – TSN121987SOK, TSN122012SOK, TSN122039SOK – TSN122042SOK, TSN122197SOK, TSN122568SOK – TSN122569SOK, and TSN124099SOK – TSN124127SOK; April 20, 2007 Set of Requests to Admit and Request for Production, RFA No. 1 and RFP No. 1 and responses thereto; September 13, 2007 Set of Interrogatories and Requests for Production, Interrogatory Nos. 6-7 and RFP No. 16 and responses thereto.

Additionally, Plaintiffs have conducted 30(b)(6) depositions of Defendant Tyson Foods, Inc. on the following topics associated with the land application of poultry litter: a) “industry practice and your contract poultry growers practice regarding handling, storage, and spreading on

land of poultry waste” and b) “the amount of and specific locations, past and present, where poultry waste generated by each and all of your poultry growing operations has been spread on land within the IRW.”

Subject to and without waiving the foregoing objections, Tyson Foods has no knowledge of specific land applications of poultry litter generated at poultry feeding operations under contract with it. Tyson Foods does not routinely maintain litter application records, but any such documents which are in the possession of Tyson Foods are located in grower files Bates numbered TSN0001SOK – TSN42738SOK, TSN63343SOK – TSN65031SOK, TSN90421SOK – TSN107965SOK, TSN125639SOK – TSN127425SOK, and TSN128050SOK – TSN141138SOK.

INTERROGATORY NO. 2: Please identify for each instance (including, where available, specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application) where poultry waste generated at your poultry feeding operations, or at poultry feeding operations under contract with you, has been land applied within the IRW which has not resulted in any run-off or leaching, identifying all witnesses to the application and all documents evidencing it.

RESPONSE TO INTERROGATORY NO. 2: Objection. Interrogatory No. 2 is untimely. Additionally, the State of Oklahoma has exceeded the number of interrogatories allowed under Federal Rule of Civil Procedure 33(a)(1). Plaintiffs have previously served a total of 26 interrogatories upon Defendant Tyson Foods, Inc.

Further, Interrogatory No. 2 seeks information which is the subject of previously served and answered interrogatories, requests for production, and requests for admission. *See* July 10, 2006 Set of Requests for Production, RFP Nos. 13-14 and 58-59 and responses thereto, including

documents Bates numbered TSN88893SOK – TSN88943SOK, TSN88945SOK – TSN88949SOK, TSN89062SOK – TSN89293SOK, TSN89502SOK – TSN89515SOK, TSN89579SOK – TSN89656SOK, TSN89662SOK – TSN89664SOK, TSN89674SOK – TSN89681SOK, TSN89682SOK, TSN89690SOK – TSN107695SOK, TSN112595SOK – TSN115598SOK, TSN112603SOK, TSN112608SOK – TSN112610SOK, TSN112625SOK, TSN113738SOK – TSN113739SOK, TSN113898SOK – TSN113891SOK, TSN113935SOK – TSN113936SOK, TSN114364SOK – TSN114378SOK, TSN114549SOK – TSN114545SOK, TSN114670SOK, TSN114718SOK – TSN114725SOK, TSN114727SOK – TSN114730SOK, TSN117054SOK – TSN117074SOK, TSN117317SOK – TSN117327SOK, TSN117349SOK – TSN117372SOK, TSN118075SOK, TSN118083SOK – TSN118084SOK, TSN118145SOK – TSN118148SOK, TSN118145SOK – TSN118148SOK, TSN121263SOK – TSN121266SOK, TSN121505SOK – TSN121509SOK, TSN121810SOK – TSN121826SOK, TSN121984SOK – TSN121987SOK, TSN122012SOK, TSN122039SOK – TSN122042SOK, TSN122197SOK, TSN122568SOK – TSN122569SOK, and TSN124099SOK – TSN124127SOK; April 20, 2007 Set of Requests to Admit and Request for Production, RFA No. 1 and RFP No. 1 and responses thereto; September 13, 2007 Set of Interrogatories and Requests for Production, Interrogatory Nos. 6-7 and RFP No. 16 and responses thereto.

Additionally, Plaintiffs have conducted 30(b)(6) depositions of Defendant Tyson Foods, Inc. on the following topics associated with the land application of poultry litter: a) “industry practice and your contract poultry growers practice regarding handling, storage, and spreading on land of poultry waste” and b) “the amount of and specific locations, past and present, where poultry waste generated by each and all of your poultry growing operations has been spread on land within the IRW.”

Interrogatory No. 2 is vague and ambiguous as it does not specifically identify as the subject of inquiry any particular substance of potential run-off or leaching. Further, through Interrogatory No. 2, Plaintiffs attempt to shift the burden of proof in this action. Plaintiff is required to prove that run-off or leaching has occurred; Tyson Foods is not required to prove that run-off or leaching has not occurred.

Subject to and without waiving the foregoing objections, Tyson Foods has no knowledge of specific land applications of poultry litter generated at poultry feeding operations under contract with it. Tyson Foods does not routinely maintain litter application records, but any such documents which are in the possession of Tyson Chicken are located in grower files Bates numbered TSN0001SOK – TSN42738SOK, TSN63343SOK – TSN65031SOK, TSN90421SOK – TSN107965SOK, TSN125639SOK – TSN127425SOK, and TSN128050SOK – TSN141138SOK.

Tyson Foods requires that its company-owned and company-managed poultry growing operations, as well as poultry growing operations under contract with it, follow all environmental laws and regulations, including those relating to obtaining and complying with an AWMP. As the purpose of an AWMP is to “protect the natural resources of the State” (O.A.C. 35:17-5-2), Tyson Foods submits that such AWMP’s are evidence that no run-off of any kind has occurred following the land application of poultry litter generated at its company-owned and company-managed poultry growing operations or at poultry growing operations under contract with it. All NMP’s and AWMP’s in the possession of Tyson Foods have been produced and are located within the grower files referenced above or within Bates range TSN18472SOK – TSN20640SOK.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1: Please produce all documents identified in the foregoing interrogatories.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: Objection. Request for Production No. 1 is untimely. Subject to and without waiving the foregoing objection, see Responses to Interrogatory Nos. 1 and 2.

REQUEST FOR PRODUCTION NO. 2: Please produce all documents evidencing land application of poultry waste from your poultry feeding operations, or those of your contract growers, in the IRW in which the land application was used as fertilizer, including but not limited to the specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application.

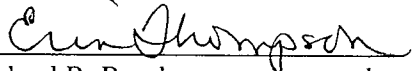
RESPONSE TO REQUEST FOR PRODUCTION NO. 2: Objection. Request for Production No. 2 is untimely. Subject to and without waiving the foregoing objection, see Response to Interrogatory No. 1.

REQUEST FOR PRODUCTION NO. 3: Please produce all documents evidencing land application of poultry waste from your poultry feeding operations, or those of your contract growers, in the IRW in which the land application of poultry waste has not resulted in any run-off or leaching, including but not limited to the specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: Objection. Request for Production No. 3 is untimely. Subject to and without waiving the foregoing objection, see Responses to Interrogatory Nos. 1 and 2.

Respectfully Submitted,

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By 

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I certify that on the 16th day of April 2009, I transmitted the attached document to the following:

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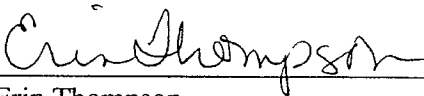
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COUNSEL FOR CARGILL, INC. AND CARGILL TURKEY PRODUCTION, LLC

I also hereby certify that I served the attached documents by United States Postal Service, proper postage paid, on the following:

Mr. J.D. Strong
Secretary of the Environment
State of Oklahoma
3800 North Classen
Oklahoma City, OK 73118


Erin Thompson

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, et al.)	
)	
Plaintiffs,)	
)	
vs.)	4:05-cv-00329-GKF-SAJ
)	
TYSON FOODS, INC., et al.,)	
)	
Defendants.)	

**TYSON CHICKEN, INC.'S RESPONSES TO THE
STATE OF OKLAHOMA'S INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS OF MARCH 17, 2009**

Defendant TYSON CHICKEN, INC. (hereinafter referred to as "Defendant" or "Tyson Chicken") submits its Responses to the State of Oklahoma's Interrogatories and Requests for Production of Documents of March 17, 2009. Tyson Chicken submits these answers and responses for itself and not for any other person or entity.

INTERROGATORIES

INTERROGATORY NO. 1: Please identify for each instance (including, where available, specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application) in which poultry waste generated at your poultry feeding operations, or at poultry feeding operations under contract with you, has been land applied within the IRW as fertilizer, identifying all witnesses to the application and all documents evidencing it.

RESPONSE TO INTERROGATORY NO. 1: Objection. Interrogatory No. 1 is untimely. Additionally, the State of Oklahoma has exceeded the number of interrogatories allowed under Federal Rule of Civil Procedure 33(a)(1). Plaintiffs have previously served a total of 26 interrogatories upon Defendant Tyson Chicken, Inc.

Further, Interrogatory No. 1 seeks information which is the subject of previously served and answered interrogatories, requests for production, and requests for admission. *See* July 10, 2006 Set of Requests for Production, RFP Nos. 13-14 and 58-59 and responses thereto, including documents Bates numbered TSN112595SOK – TSN112598SOK, TSN112603SOK, TSN112608SOK – TSN112610SOK, TSN112625SOK, TSN113738SOK – TSN113739SOK, TSN113889SOK – TSN113891SOK, TSN113935SOK – TSN113936SOK, TSN114364SOK – TSN114378SOK, TSN114549SOK – TSN114565SOK, TSN114670SOK, TSN114718SOK – TSN114725SOK, TSN114727SOK – TSN114730SOK, TSN122568SOK – TSN122569SOK, and TSN157975SOK; April 20, 2007 Set of Requests to Admit and Request for Production, RFA No. 1 and RFP No. 1 and responses thereto; September 13, 2007 Set of Interrogatories and Requests for Production, Interrogatory Nos. 6-7 and RFP No. 16 and responses thereto.

Additionally, Plaintiffs have conducted 30(b)(6) depositions of Defendant Tyson Chicken, Inc. on the following topics associated with the land application of poultry litter: a) “industry practice and your contract poultry growers practice regarding handling, storage, and spreading on land of poultry waste” and b) “the amount of and specific locations, past and present, where poultry waste generated by each and all of your poultry growing operations has been spread on land within the IRW.”

Subject to and without waiving the foregoing objections, Tyson Chicken has no knowledge of specific land applications of poultry litter generated at poultry feeding operations under contract with it. Tyson Chicken does not routinely maintain litter application records, but any such documents which are in the possession of Tyson Chicken are located in grower files Bates numbered TSN42786SOK – TSN59499SOK, TSN62427SOK – TSN63342SOK, TSN65032SOK – TSN86625SOK, TSN89690SOK – TSN90078SOK, TSN118280SOK –

TSN119578SOK, TSN127426SOK – TSN128049SOK, and TSN141139SOK – TSN154304SOK.

INTERROGATORY NO. 2: Please identify for each instance (including, where available, specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application) where poultry waste generated at your poultry feeding operations, or at poultry feeding operations under contract with you, has been land applied within the IRW which has not resulted in any run-off or leaching, identifying all witnesses to the application and all documents evidencing it.

RESPONSE TO INTERROGATORY NO. 2: Objection. Interrogatory No. 2 is untimely. Additionally, the State of Oklahoma has exceeded the number of interrogatories allowed under Federal Rule of Civil Procedure 33(a)(1). Plaintiffs have previously served a total of 26 interrogatories upon Defendant Tyson Chicken, Inc.

Further, Interrogatory No. 2 seeks information which is the subject of previously served and answered interrogatories, requests for production, and requests for admission. *See* July 10, 2006 Set of Requests for Production, RFP Nos. 13-14 and 58-59 and responses thereto, including documents Bates numbered TSN112595SOK – TSN112598SOK, TSN112603SOK, TSN112608SOK – TSN112610SOK, TSN112625SOK, TSN113738SOK – TSN113739SOK, TSN113889SOK – TSN113891SOK, TSN113935SOK – TSN113936SOK, TSN114364SOK – TSN114378SOK, TSN114549SOK – TSN114565SOK, TSN114670SOK, TSN114718SOK – TSN114725SOK, TSN114727SOK – TSN114730SOK, TSN122568SOK – TSN122569SOK, and TSN157975SOK; April 20, 2007 Set of Requests to Admit and Request for Production, RFA No. 1 and RFP No. 1 and responses thereto; September 13, 2007 Set of Interrogatories and Requests for Production, Interrogatory Nos. 6-7 and RFP No. 16 and responses thereto.

Additionally, Plaintiffs have conducted 30(b)(6) depositions of Defendant Tyson Chicken, Inc. on the following topics associated with the land application of poultry litter: a) "industry practice and your contract poultry growers practice regarding handling, storage, and spreading on land of poultry waste" and b) "the amount of and specific locations, past and present, where poultry waste generated by each and all of your poultry growing operations has been spread on land within the IRW."

Interrogatory No. 2 is vague and ambiguous as it does not specifically identify as the subject of inquiry any particular substance of potential run-off or leaching. Further, through Interrogatory No. 2, Plaintiffs attempt to shift the burden of proof in this action. Plaintiff is required to prove that run-off or leaching has occurred; Tyson Chicken is not required to prove that run-off or leaching has not occurred.

Subject to and without waiving the foregoing objections, Tyson Chicken has no knowledge of specific land applications of poultry litter generated at poultry feeding operations under contract with it. Tyson Chicken does not routinely maintain litter application records for poultry growing operations under contract with it, but any such documents which are in the possession of Tyson Chicken are located in grower files Bates numbered are located in grower files Bates numbered TSN42786SOK – TSN59499SOK, TSN62427SOK – TSN63342SOK, TSN65032SOK – TSN86625SOK, TSN89690SOK – TSN90078SOK, TSN118280SOK – TSN119578SOK, TSN127426SOK – TSN128049SOK, and TSN141139SOK – TSN154304SOK.

Tyson Chicken requires that its company-owned and company-managed poultry growing operations, as well as poultry growing operations under contract with it, follow all environmental laws and regulations, including those relating to obtaining and complying with an AWMP. As

the purpose of an AWMP is to “protect the natural resources of the State” (O.A.C. 35:17-5-2), Tyson Chicken submits that such AWMP’s are evidence that no run-off of any kind has occurred following the land application of poultry litter generated at its company-owned and company-managed poultry growing operations or at poultry growing operations under contract with it. All NMP’s and AWMP’s in the possession of Tyson Chicken have been produced and are located in the above-referenced contract grower files or at Bates numbers TSN18472SOK – TSN20640SOK.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1: Please produce all documents identified in the foregoing interrogatories.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: Objection. Request for Production No. 1 is untimely. Subject to and without waiving the foregoing objection, see Responses to Interrogatory Nos. 1 and 2.

REQUEST FOR PRODUCTION NO. 2: Please produce all documents evidencing land application of poultry waste from your poultry feeding operations, or those of your contract growers, in the IRW in which the land application was used as fertilizer, including but not limited to the specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2: Objection. Request for Production No. 2 is untimely. Subject to and without waiving the foregoing objection, see Response to Interrogatory No. 1.

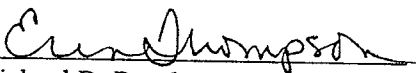
REQUEST FOR PRODUCTION NO. 3: Please produce all documents evidencing land application of poultry waste from your poultry feeding operations, or those of your contract

growers, in the IRW in which the land application of poultry waste has not resulted in any run-off or leaching, including but not limited to the specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: Objection. Request for Production No. 3 is untimely. Subject to and without waiving the foregoing objection, see Responses to Interrogatory Nos. 1 and 2.

Respectfully Submitted,

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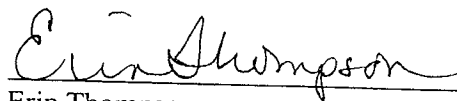
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I also hereby certify that I served the attached documents by United States Postal Service, proper postage paid, on the following:

Mr. J.D. Strong
Secretary of the Environment
State of Oklahoma
3800 North Classen
Oklahoma City, OK 73118


Erin Thompson

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, et al.)	
)	
Plaintiffs,)	
)	
vs.)	4:05-cv-00329-GKF-SAJ
)	
TYSON FOODS, INC., et al.,)	
)	
Defendants.)	

**TYSON POULTRY, INC.'S RESPONSES TO THE
STATE OF OKLAHOMA'S INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS OF MARCH 17, 2009**

Defendant TYSON POULTRY, INC. (hereinafter referred to as "Defendant" or "Tyson Poultry") submits its Responses to the State of Oklahoma's Interrogatories and Requests for Production of Documents of March 17, 2009. Tyson Poultry submits these answers and responses for itself and not for any other person or entity.

INTERROGATORIES

INTERROGATORY NO. 1: Please identify for each instance (including, where available, specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application) in which poultry waste generated at your poultry feeding operations, or at poultry feeding operations under contract with you, has been land applied within the IRW as fertilizer, identifying all witnesses to the application and all documents evidencing it.

RESPONSE TO INTERROGATORY NO. 1: Objection. Interrogatory No. 1 is untimely. Additionally, the State of Oklahoma has exceeded the number of interrogatories allowed under Federal Rule of Civil Procedure 33(a)(1). Plaintiffs have previously served a total of 26 interrogatories upon Defendant Tyson Poultry, Inc.

Further, Interrogatory No. 1 seeks information which is the subject of previously served and answered interrogatories, requests for production, and requests for admission. *See* July 10, 2006 Set of Requests for Production, RFP Nos. 13-14 and 58-59 and responses thereto, including documents Bates numbered TSN112603SOK, TSN112625SOK, TSN113738SOK – TSN112739SOK, TSN114670SOK, TSN114718SOK – TSN114725SOK, TSN114727SOK – TSN114730SOK, TSN122568SOK – TSN122569SOK, TSN159236SOK – TSN159359SOK, TSN159528SOK – TSN159554SOK, TSN159573SOK – TSN159577SOK, TSN159750SOK – TSN159751SOK, TSN161606SOK, TSN162772SOK – TSN162935SOK, TSN162940SOK – TSN162945SOK, TSN162951SOK – TSN162957SOK, and TSN162958SOK – TSN162971SOK; April 20, 2007 Set of Requests to Admit and Request for Production, RFA No. 1 and RFP No. 1 and responses thereto; September 13, 2007 Set of Interrogatories and Requests for Production, Interrogatory Nos. 6-7 and RFP No. 16 and responses thereto.

Additionally, Plaintiffs have conducted 30(b)(6) depositions of Defendant Tyson Poultry, Inc. on the following topics associated with the land application of poultry litter: a) “industry practice and your contract poultry growers practice regarding handling, storage, and spreading on land of poultry waste” and b) “the amount of and specific locations, past and present, where poultry waste generated by each and all of your poultry growing operations has been spread on land within the IRW.”

Subject to and without waiving the foregoing objections, Tyson Poultry has no knowledge of specific land applications of poultry litter generated at poultry feeding operations under contract with it. Tyson Poultry does not routinely maintain litter application records for poultry growing operations under contract with it, but any such documents which are in the possession of Tyson Poultry are located in grower files Bates numbered TSN0001SOK –

TSN42738SOK, TSN63343SOK – TSN65031SOK, TSN90421SOK – TSN107965SOK, TSN125639SOK – TSN127425SOK, and TSN128050SOK – TSN141138SOK.

INTERROGATORY NO. 2: Please identify for each instance (including, where available, specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application) where poultry waste generated at your poultry feeding operations, or at poultry feeding operations under contract with you, has been land applied within the IRW which has not resulted in any run-off or leaching, identifying all witnesses to the application and all documents evidencing it.

RESPONSE TO INTERROGATORY NO. 2: Objection. Interrogatory No. 2 is untimely. Additionally, the State of Oklahoma has exceeded the number of interrogatories allowed under Federal Rule of Civil Procedure 33(a)(1). Plaintiffs have previously served a total of 26 interrogatories upon Defendant Tyson Poultry, Inc.

Further, Interrogatory No. 2 seeks information which is the subject of previously served and answered interrogatories, requests for production, and requests for admission. *See* July 10, 2006 Set of Requests for Production, RFP Nos. 13-14 and 58-59 and responses thereto, TSN112603SOK, TSN112625SOK, TSN113738SOK – TSN112739SOK, TSN114670SOK, TSN114718SOK – TSN114725SOK, TSN114727SOK – TSN114730SOK, TSN122568SOK – TSN122569SOK, TSN159236SOK – TSN159359SOK, TSN159528SOK – TSN159554SOK, TSN159573SOK – TSN159577SOK, TSN159750SOK – TSN159751SOK, TSN161606SOK, TSN162772SOK – TSN162935SOK, TSN162940SOK – TSN162945SOK, TSN162951SOK – TSN162957SOK, and TSN162958SOK – TSN162971SOK; April 20, 2007 Set of Requests to Admit and Request for Production, RFA No. 1 and RFP No. 1 and responses thereto; September 13, 2007 Set of Interrogatories and Requests for Production, Interrogatory Nos. 6-7 and RFP No.

16 and responses thereto.

Additionally, Plaintiffs have conducted 30(b)(6) depositions of Defendant Tyson Poultry, Inc. on the following topics associated with the land application of poultry litter: a) “industry practice and your contract poultry growers practice regarding handling, storage, and spreading on land of poultry waste” and b) “the amount of and specific locations, past and present, where poultry waste generated by each and all of your poultry growing operations has been spread on land within the IRW.”

Interrogatory No. 2 is vague and ambiguous as it does not specifically identify as the subject of inquiry any particular substance of potential run-off or leaching. Further, through Interrogatory No. 2, Plaintiffs attempt to shift the burden of proof in this action. Plaintiff is required to prove that run-off or leaching has occurred; Tyson Poultry is not required to prove that run-off or leaching has not occurred.

Subject to and without waiving the foregoing objections, Tyson Poultry has no knowledge of specific land applications of poultry litter generated at poultry feeding operations under contract with it. Tyson Poultry does not routinely maintain litter application records for poultry growing operations under contract with it, but any such documents which are in the possession of Tyson Poultry are located in grower files Bates numbered TSN0001SOK – TSN42738SOK, TSN63343SOK – TSN65031SOK, TSN90421SOK – TSN107965SOK, TSN125639SOK – TSN127425SOK, and TSN128050SOK – TSN141138SOK.

Tyson Poultry requires that poultry growing operations under contract with it follow all environmental laws and regulations, including those relating to obtaining and complying with an AWMP. As the purpose of an AWMP is to “protect the natural resources of the State” (O.A.C. 35:17-5-2), Tyson Poultry submits that such AWMP’s are evidence that no run-off of any kind

has occurred following the land application of poultry litter generated at poultry growing operations under contract with it. All NMP's and AWMP's in the possession of Tyson Poultry have been produced and are located within the above-referenced contract grower files or within the following Bates range: TSN18472SOK – TSN20640SOK.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1: Please produce all documents identified in the foregoing interrogatories.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: Objection. Request for Production No. 1 is untimely. Subject to and without waiving the foregoing objection, see Responses to Interrogatory Nos. 1 and 2.

REQUEST FOR PRODUCTION NO. 2: Please produce all documents evidencing land application of poultry waste from your poultry feeding operations, or those of your contract growers, in the IRW in which the land application was used as fertilizer, including but not limited to the specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2: Objection. Request for Production No. 2 is untimely. Subject to and without waiving the foregoing objection, see Response to Interrogatory No. 1.

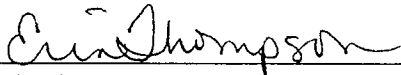
REQUEST FOR PRODUCTION NO. 3: Please produce all documents evidencing land application of poultry waste from your poultry feeding operations, or those of your contract growers, in the IRW in which the land application of poultry waste has not resulted in any run-off or leaching, including but not limited to the specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: Objection. Request for

Production No. 3 is untimely. Subject to and without waiving the foregoing objection, see Responses to Interrogatory Nos. 1 and 2.

Respectfully Submitted,

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I certify that on the 16th day of April 2009, I electronically transmitted the attached document to the following:

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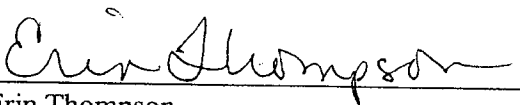
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Mr. J.D. Strong
Secretary of the Environment
State of Oklahoma
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Oklahoma City, OK 73118


Erin Thompson

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, et al.)	
)	
Plaintiffs,)	
)	
vs.)	4:05-cv-00329-GKF-SAJ
)	
TYSON FOODS, INC., et al.,)	
)	
Defendants.)	

**COBB-VANTRESS, INC.'S RESPONSES TO THE STATE OF
OKLAHOMA'S INTERROGATORIES AND REQUESTS FOR PRODUCTION OF
DOCUMENTS OF MARCH 17, 2009**

Defendant COBB-VANTRESS, INC. (hereinafter referred to as "Defendant" or "Cobb-Vantress") submits its Responses to the State of Oklahoma's Interrogatories and Requests for Production of Documents of March 17, 2009. Cobb-Vantress submits these answers and responses for itself and not for any other person or entity.

INTERROGATORIES

INTERROGATORY NO. 1: Please identify for each instance (including, where available, specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application) in which poultry waste generated at your poultry feeding operations, or at poultry feeding operations under contract with you, has been land applied within the IRW as fertilizer, identifying all witnesses to the application and all documents evidencing it.

RESPONSE TO INTERROGATORY NO. 1: Objection. Interrogatory No. 1 is untimely. Additionally, the State of Oklahoma has exceeded the number of interrogatories allowed under Federal Rule of Civil Procedure 33(a)(1). Plaintiffs have previously served a total of 26 interrogatories upon Defendant Cobb-Vantress, Inc.

Further, Interrogatory No. 1 seeks information which is the subject of previously served and answered interrogatories, requests for production, and requests for admission. *See* July 10, 2006 Set of Requests for Production, RFP Nos. 13-14 and 58-59 and responses thereto, including documents Bates numbered TSN112625SOK, TSN114670SOK, TSN122039SOK – TSN122042SOK, TSN122197SOK, TSN122568SOK – TSN122569SOK; April 20, 2007 Set of Requests to Admit and Request for Production, RFA No. 1 and RFP No. 1 and responses thereto; September 13, 2007 Set of Interrogatories and Requests for Production, Interrogatory Nos. 6-7 and RFP No. 16 and responses thereto.

Additionally, Plaintiffs have conducted 30(b)(6) depositions of Defendant Cobb-Vantress, Inc. on the following topics associated with the land application of poultry litter: a) “industry practice and your contract poultry growers practice regarding handling, storage, and spreading on land of poultry waste” and b) “the amount of and specific locations, past and present, where poultry waste generated by each and all of your poultry growing operations has been spread on land within the IRW.”

Subject to and without waiving the foregoing objections, Cobb-Vantress has no knowledge of specific land applications of poultry litter generated at poultry feeding operations under contract with it. Cobb-Vantress does not routinely maintain litter application records for poultry growing operations under contract with it, but any such documents which are in the possession of Cobb-Vantress are located in grower files Bates numbered TSN59500SOK – TSN60270SOK, TSN60333SOK – TSN60334SOK, TSN60336SOK – TSN60338SOK, TSN60340SOK – TSN60343SOK, TSN60347SOK, TSN60376SOK – TSN62426SOK, TSN86626SOK – TSN86657SOK, TSN90079SOK – TSN90420SOK, TSN115147SOK – TSN115149SOK, TSN115161SOK – TSN115358SOK, and TSN125180ASOK –

TSN125638SOK. With respect to poultry growing operations owned or managed by Cobb-Vantress, any litter application records maintained by Cobb-Vantress have been produced and are contained in the following Bates number range: TSN60271SOK – TSN60332SOK, TSN60335SOK, TSN60339SOK, TSN60344SOK – TSN60346SOK, TSN60348SOK – TSN60375SOK, TSN86658SOK – TSN86919SOK, TSN115069SOK – TSN115146SOK, TSN115150SOK – TSN115160SOK, and TSN164412SOK – TSN164414SOK.

INTERROGATORY NO. 2: Please identify for each instance (including, where available, specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application) where poultry waste generated at your poultry feeding operations, or at poultry feeding operations under contract with you, has been land applied within the IRW which has not resulted in any run-off or leaching, identifying all witnesses to the application and all documents evidencing it.

RESPONSE TO INTERROGATORY NO. 2: Objection. Interrogatory No. 2 is untimely. Additionally, the State of Oklahoma has exceeded the number of interrogatories allowed under Federal Rule of Civil Procedure 33(a)(1). Plaintiffs have previously served a total of 26 interrogatories upon Defendant Cobb-Vantress, Inc.

Further, Interrogatory No. 2 seeks information which is the subject of previously served and answered interrogatories, requests for production, and requests for admission. *See* July 10, 2006 Set of Requests for Production, RFP Nos. 13-14 and 58-59 and responses thereto, including documents Bates numbered TSN112625SOK, TSN114670SOK, TSN122039SOK – TSN122042SOK, TSN122197SOK, TSN122568SOK – TSN122569SOK; April 20, 2007 Set of Requests to Admit and Request for Production, RFA No. 1 and RFP No. 1 and responses thereto; September 13, 2007 Set of Interrogatories and Requests for Production, Interrogatory Nos. 6-7

and RFP No. 16 and responses thereto.

Additionally, Plaintiffs have conducted 30(b)(6) depositions of Defendant Cobb-Vantress, Inc. on the following topics associated with the land application of poultry litter: a) “industry practice and your contract poultry growers practice regarding handling, storage, and spreading on land of poultry waste” and b) “the amount of and specific locations, past and present, where poultry waste generated by each and all of your poultry growing operations has been spread on land within the IRW.”

Interrogatory No. 2 is vague and ambiguous as it does not specifically identify as the subject of inquiry any particular substance of potential run-off or leaching. Further, through Interrogatory No. 2, Plaintiffs attempt to shift the burden of proof in this action. Plaintiff is required to prove that run-off or leaching has occurred; Cobb-Vantress is not required to prove that run-off or leaching has not occurred.

Subject to and without waiving the foregoing objections, Cobb-Vantress has no knowledge of specific land applications of poultry litter generated at poultry feeding operations under contract with it. Cobb-Vantress does not routinely maintain litter application records for poultry growing operations under contract with it, but any such documents which are in the possession of Cobb-Vantress are located in grower files Bates numbered TSN59500SOK – TSN60270SOK, TSN60333SOK – TSN60334SOK, TSN60336SOK – TSN60338SOK, TSN60340SOK - TSN60343SOK, TSN60347SOK, TSN60376SOK – TSN62426SOK, TSN86626SOK – TSN86657SOK, TSN90079SOK – TSN90420SOK, TSN115147SOK – TSN115149SOK, TSN115161SOK - TSN115358SOK, and TSN125180ASOK – TSN125638SOK. With respect to poultry growing operations owned or managed by Cobb-Vantress, any litter application records maintained by Cobb-Vantress have been produced and

are contained within the following Bates number range: TSN60271SOK – TSN60332SOK, TSN60335SOK, TSN60339SOK, TSN60344SOK – TSN60346SOK, TSN60348SOK – TSN60375SOK, TSN86658SOK – TSN86919SOK, TSN115069SOK – TSN115146SOK, TSN115150SOK – TSN115160SOK, and TSN164412SOK – TSN164414SOK.

Cobb-Vantress requires that its company-managed poultry growing operations, as well as poultry growing operations under contract with it, follow all environmental laws and regulations, including those relating to obtaining and complying with an AWMP. As the purpose of an AWMP is to “protect the natural resources of the State” (O.A.C. 35:17-5-2), Cobb-Vantress submits that such AWMP’s are evidence that no run-off of any kind has occurred following the land application of poultry litter generated at its company-owned and company-managed poultry growing operations or at poultry growing operations under contract with it. All NMP’s and AWMP’s in the possession of Cobb-Vantress have been produced and are located in contract grower files Bates numbered TSN59500SOK – TSN62426SOK, TSN86626SOK – TSN86919SOK, TSN900079SOK – TSN90420SOK, TSN115069SOK – TSN115358SOK, TSN164412SOK – TSN164414SOK.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1: Please produce all documents identified in the foregoing interrogatories.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: Objection. Request for Production No. 1 is untimely. Subject to and without waiving the foregoing objection, see Responses to Interrogatory Nos. 1 and 2.

REQUEST FOR PRODUCTION NO. 2: Please produce all documents evidencing land application of poultry waste from your poultry feeding operations, or those of your contract

growers, in the IRW in which the land application was used as fertilizer, including but not limited to the specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application.

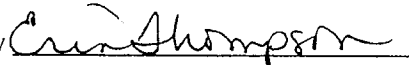
RESPONSE TO REQUEST FOR PRODUCTION NO. 2: Objection. Request for Production No. 2 is untimely. Subject to and without waiving the foregoing objection, see Response to Interrogatory No. 1.

REQUEST FOR PRODUCTION NO. 3: Please produce all documents evidencing land application of poultry waste from your poultry feeding operations, or those of your contract growers, in the IRW in which the land application of poultry waste has not resulted in any run-off or leaching, including but not limited to the specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: Objection. Request for Production No. 3 is untimely. Subject to and without waiving the foregoing objection, see Responses to Interrogatory Nos. 1 and 2.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I certify that on the 16th day of April 2009, I electronically transmitted the attached document to the following:

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I also hereby certify that I served the attached documents by United States Postal Service, proper postage paid, on the following:

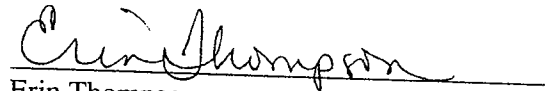
Mr. J.D. Strong

Secretary of the Environment

State of Oklahoma

3800 North Classen

Oklahoma City, OK 73118


Erin Thompson

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA,)
)
Plaintiff,)
)
v.)
)
TYSON FOODS, INC., et al.,)
)
Defendants.)

Case No. 05-CV-329-GKF-SAJ

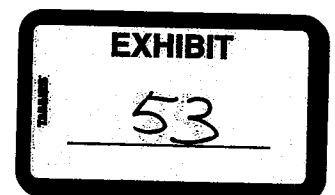
TYSON DEFENDANTS' RESPONSES TO THE
STATE OF OKLAHOMA'S SEPTEMBER 13, 2007 SET OF
INTERROGATORIES AND REQUESTS FOR PRODUCTION
TO ALL DEFENDANTS

Defendants' Tyson Foods, Inc., Tyson Poultry, Inc., Tyson Chicken, Inc., and Cobb-Vantress, Inc. (collectively, the "Tyson Defendants"), by and through their attorneys for their responses to Plaintiffs' September 13, 2007 Set of Interrogatories and Requests for Production to All Defendants state as follows:

OBJECTIONS TO DEFINITIONS

1. The Tyson Defendants object to Plaintiffs' definition of "Poultry waste" as vague, ambiguous and misleading. Poultry litter, which is what Plaintiffs apparently intend to encompass with the term "Poultry waste," is not waste as that term is defined in the regulatory context or in common usage. Without waiving this objection, The Tyson Defendants will respond.

2. The Tyson Defendants object to Plaintiffs' definition of "you" as overly broad in that it encompasses the Tyson Defendants' attorneys, consultants and investigators, and as such, Plaintiffs' interrogatories and requests for production using the term "you" as defined by Plaintiffs invade the Tyson Defendants' privileges against disclosure, including the attorney-



client communication privilege, the attorney work product and trial preparation doctrines; and the common interest and joint defense privileges.

3. The Tyson Defendants object to Plaintiffs' definition of "Waters of the State" as legally wrong, vague, ambiguous and misleading in so far as that definition encompasses both publicly-owned and privately-owned water. Without waiving this objection, the Tyson Defendants will respond.

RESPONSES

INTERROGATORY NO. 1: Do you contend that since 1980 no poultry waste (including any constituents thereof) that was generated at your own poultry growing / feeding operations and/or poultry growing / feeding operations under contract with you and that was applied to land within the Illinois River Watershed has run-off / been released / been discharged, directly or indirectly, to the Waters of the State in the Illinois River Watershed? If you do not so contend, please describe with specificity (a) the constituents that have run-off / been released / been discharged, (b) when and how you first became aware that such constituents were running off / being released / being discharged, (c) the parcels of land from which such run-off / releases / discharges have occurred, (d) any efforts by you to quantify the amount of the constituents that have run-off / been released / have been discharged and the results of those efforts, (e) any efforts to characterize and/or quantify the environmental and/or human health effects of such run-off / releases / discharges on the Illinois River Watershed and the results of such efforts, and (f) the soil test phosphorus of the land upon which the poultry waste was applied at the time the poultry waste was applied.

RESPONSE TO INTERROGATORY NO. 1: The Tyson Defendants have not discovered nor been provided information which disputes the contention stated by Plaintiffs in Interrogatory No.1. The Tyson Defendants are not aware of any specific poultry litter

constituents that have run off of any particular parcel of land in the IRW and deny that there is information showing environmental or human health effects of poultry litter or its constituents and rely on the appropriate regulatory authorities in this regard.

INTERROGATORY NO. 2: Do you contend that the run-off / release / discharge of poultry waste (including any constituents thereof) that has been applied to land within the Illinois River Watershed had no adverse effect on the Waters of the State in the Illinois River Watershed or persons coming in contact or drinking such Waters? If you do not so contend, please (a) describe the adverse effect(s), (b) the degree of the adverse effect(s), (c) state when you first became aware of the adverse effect(s), and (d) state what you have done to address the adverse effect(s).

RESPONSE TO INTERROGATORY NO. 2: The Tyson Defendants have not discovered nor been provided information which disputes the contention stated by Plaintiffs in Interrogatory No.2. The Tyson Defendants deny there is information showing adverse effects of poultry litter or its constituents on the Waters of the State in the IRW or persons coming into contact with or drinking such water and relies on the appropriate regulatory authorities in this regard.

INTERROGATORY NO. 3: For each year since 1980 please state (a) the average weight per bird (in lbs.) of your birds raised / fed in the Illinois River Watershed, and the basis of your knowledge of this information, (b) the average weight of the excrement per bird (in lbs.) of your birds raised / fed in the Illinois River Watershed, and the basis of your knowledge of this information, (c) how many birds you raised / fed in the Illinois River Watershed, and the basis of your knowledge of this information, (d) the total weight of feed (in lbs. or tons) supplied to feed your birds raised / fed in the Illinois River Watershed, and the basis of your knowledge of this information, and (e) the total weight of the ingredients in that feed that were grown, mined

or otherwise produced within the Illinois River Watershed, and the basis of your knowledge of this information. If your response to any of the above is that you do not know, please state why you have never undertaken to determine this information.

RESPONSE TO INTERROGATORY NO. 3: The Tyson Defendants object to this interrogatory because requires the Tyson Defendants to research and compile documents and information previously produced or provided to Plaintiffs and to calculate and summarize that information to suit Plaintiffs' litigation purposes. The Tyson Defendants do not maintain the data or information in the manner requested in the ordinary course of their respective businesses. As Plaintiffs are aware, with regard to the average weight per bird raised, number of birds raised and feed utilized annually the Tyson Defendants do not track this information by watershed. This information is organized by Complex. Information responsive to the inquiries can be determined by utilizing Tyson Foods, Tyson Chicken, Tyson Poultry, and Cobb Vantress' Responses to Plaintiffs First Set of Interrogatories, Interrogatory No. 1(a) and supplements thereto and the live production data previously produced at TSN116813SOK-TSN116834SOK, TSN116835SOK-TSN116891SOK, TSN116892SOK-TSN116937SOK, TSN107974SOK-107985SOK, TSN108155SOK-TSN108982SOK, TSN105983SOK-TSN111043SOK, as well the previously produced records identified by bates number in the columns titled "Flock Transfer Register," "Flock Profile Report," "Broiler Production Settlement by Grower," "Cost of Hens Sold" and "Sold Hen Statistics" set forth in the attached index. With regard to Interrogatory 3(b) the Tyson Defendants do not know the average weight of the excrement per bird raised in the IRW. With regard to Interrogatory 3(e) the Tyson Defendants do not know the weight of the ingredients in the feed that was grown, mined or otherwise produced in the IRW. The Tyson Defendants in their normal course of business do not utilize and therefore do not maintain the information as requested in Interrogatories 3(a) - 3(e).

INTERROGATORY NO. 4:

Please list the chemicals / chemical compounds, as well as types of any pathogens, that are typically found in excrement from your birds raised / fed in the Illinois River Watershed, and the ratio by weight of these chemicals / chemical compounds to one another. If your response is that you do not know, please state why you have never undertaken to determine this information.

RESPONSE TO INTERROGATORY NO. 4:

The Tyson Defendants are generally aware as result of possessing certain Nutrient Management Plans (NMPs) that phosphates, nitrates, bacteria and potassium are contained in poultry litter. The Tyson Defendants previously produced to Plaintiffs NMPs which contain analysis of poultry litter and those can be found at Bates Range TSN18472SOK-TSN20640SOK and in the previously produced documents identified by bates number in the columns titled "Animal Waste Management Plan" and "Nutrient Management Plan" in the attached index.

INTERROGATORY NO. 5:

For each year since 1980 please state whether poultry waste generated at your own poultry growing / feeding operations and/or poultry growing / feeding operations under contract with you in the Illinois River Watershed has been transported out of the Illinois River Watershed, and, if so, the identity of each operation that generated the poultry waste, the amounts of poultry waste that were transported out, when the poultry waste was transported out, where the poultry waste was transported to, who transported the poultry waste out, who paid for the transport out, and how much the transport cost.

RESPONSE TO INTERROGATORY NO. 5:

The Tyson Defendants do not possess information necessary to sufficiently respond to this interrogatory as this information is maintained by third parties, such as BMPs, Inc., independent poultry farmers and commercial litter applicators/haulers who have no obligation to provide such information to the Tyson Defendants. The Tyson Defendants are aware that some growers whom with they contract with

have their poultry litter transported out of the IRW watershed. Some growers utilize a company called BMPs, Inc., which, in part, facilitates the transportation of poultry litter out of the IRW and Plaintiffs have subpoenaed records which would likely provide responsive information to this request from BMPs, Inc.. Tyson previously produced documents in its possession which contain information pertaining to the hauling of poultry litter out of the IRW. See Bates Ranges TSN112601SOK, TSN112705SOK, TSN112711SOK, TSN112717SOK, TSN112721SOK, TSN112741SOK, TSN112779SOK, TSN112799SOK, TSN112800SOK, TSN112800SOK, TSN112933SOK, TSN112953SOK, TSN112968SOK, TSN112969SOK, TSN112991SOK, TSN112994SOK, TSN113005SOK, TSN113036SOK, TSN113046SOK, TSN113150SOK, TSN113116SOK, TSN113168SOK-TSN113180SOK, TSN113230SOK, TSN113246SOK, TSN113335SOK, TSN113372SOK, TSN113383SOK, TSN113385SOK, TSN113420SOK, TSN113426SOK, TSN113427SOK, TSN113428SOK, TSN113429SOK, TSN113669SOK. Additionally, Plaintiffs have subpoenaed records from and taken depositions of independent poultry farmers who have contracted with the Tyson Defendant for the raising of poultry with regard the information requested in this interrogatory and received responsive information. Furthermore, Plaintiffs have subpoenaed records from and taken depositions of commercial poultry litter applicators/haulers who have purchased poultry litter from the Tyson Defendants and contract growers with regard to the information requested in this interrogatory and received responsive information.

INTERROGATORY NO. 6: For poultry waste generated at your own poultry growing / feeding operations and/or poultry growing / feeding operations under contract with you in the Illinois River Watershed since 1980 that has not been transported out of the Illinois River Watershed, please state, broken down by year, how the poultry waste was disposed of

(e.g., land application within the Illinois River Watershed, burning as fuel within the Illinois River Watershed, etc.) and the amount disposed of in each particular manner.

RESPONSE TO INTERROGATORY NO. 6: The Tyson Defendants do not possess sufficient information to respond to this interrogatory.

INTERROGATORY NO. 7: For each year since 1980, please state (a) the amount (in lbs., tons, or other standard of measure) of and (b) the percentage of the poultry waste generated by your poultry growing / feeding operations and poultry growing / feeding operations under contract with you that has been applied to land within the Illinois River Watershed as what you contend is a fertilizer, and identify the information upon which you have relied in making your answer.

RESPONSE TO INTERROGATORY NO. 7: The Tyson Defendants do not possess sufficient information to respond to this interrogatory.

INTERROGATORY NO. 8: Please identify each and every seminar, conference, workshop, symposium, meeting and/or task force since 1980 attended by or participated in by you or your employees that addressed (a) the land application of poultry waste (including any constituents thereof), (b) the run-off / release / discharge of poultry waste (including any constituents thereof) from land on which it has been applied to the environment, and/or (c) the environmental and/or human health effects or dangers of the run-off / release / discharge of poultry waste (including any constituents thereof) from land on which it has been applied to the environment. A complete answer will include (i) the name, date and location of the seminar, conference, workshop, symposium, meeting and/or task force, (ii) the sponsor(s) or organizer(s) of the seminar, conference, workshop, symposium, meeting and/or task force, (iii) a detailed description of the topics covered by the seminar, conference, workshop, symposium, meeting and/or task force, (iv) the names of the presentors at the seminar, conference, workshop,

symposium, meeting and/or task force, and (v) the name(s) of any attendees / participants from your company who attended or participated in the seminar, conference, workshop, symposium, meeting and/or task force.

RESPONSE TO INTERROGATORY NO. 8: Objection. This interrogatory is vague, overly broad and unduly burdensome in that it compasses more than a 25 year time span, and appears to seek detailed information regarding every occurrence during that time span in which an employee of the Tyson Defendants was present during a discussion (formal or informal) which involved poultry litter. As, such the Tyson Defendants cannot provide a complete response to this interrogatory. Tyson further objects to this interrogatory to the extent that it calls for information protected by the First Amendment to the United States Constitution. The First Amendment protects the right to petition the government for a redress of grievances, the right of free association and the right of assembly. Each of these rights are accorded protection equivalent to that of the freedom of speech. NAACP v. Alabama ex rel. Patterson, 357 U.S. 449, 460 (1958). NAACP v. Alabama ex rel. Patterson, 357 U.S. 449, 460 (1958). The United States Supreme Court has long acknowledged that the disclosure of information related to one's right to petition the government, associate with groups and assemble results in an impermissible "chilling effect" that discourages the exercise of those rights by subjecting them to physical, economic or social reprisals. Id., 357 U.S. at 462-63 (divulging NAACP membership lists will expose members to "loss of employment, threat of physical coercion, and other manifestations of public hostility" and "dissuade others from joining [the association] because of fear of exposure of their beliefs shown through their associations"); AFL-CIO v. Federal Election Comm'n, 333 F.3d 168, 176 (D.C. Cir. 2003) (release of internal union documents "will make it more difficult for the organizations to recruit future personnel"). The ability to exercise these rights in private, without government monitoring before, during or after the fact, is a necessary adjunct to the First

Amendment. "Inviolability of privacy in group associations may in many circumstances be indispensable to preservation of freedom of association, particularly where a group espouses dissident beliefs." Patterson, 357 U.S. at 462; McIntyre v. Ohio Elections Comm'n, 514 U.S. 334, 341-42 (1995) ("The decision in favor of anonymity may be motivated by fear of economic or official retaliation, by concern about social ostracism, or merely by a desire to preserve as much of one's privacy as possible" and "is an aspect of the freedom of speech protected by the First Amendment"). These rights are not limited to political activities or beliefs. See NAACP v. Button, 371 U.S. 415 (1963) (the right to association includes mutual legal and economic interests). Subject to and without waiving the foregoing objections the Tyson Defendants respond as follows.

Jamie Burr attended: Eucha Spavinaw Watershed Management Team meetings hosted by ODAFF in spring 2004, November 2005, October 2006; a Nutrient Management Plan writing course hosted by the University of Arkansas in January 2007; a meeting regarding Hydrologic Assessment and Phosphorus Indices hosted the University of Arkansas in April 2007, Arkansas Phosphorus Index meetings hosted by ANRC in April, May, July and August of 2007; SERA 17 Conference hosted by the University of Arkansas in June 2007; University of Arkansas Water Quality Conference in October 2007 and BMP Board Meetings in November 2005, February and August 2006 and February, March, April, May, September and October 2007.

John Askegaard attended: a Poultry Litter & Renewable Resource Seminar in Fayetteville, Arkansas in May 2004; Winrock International seminar regarding poultry litter in Fayetteville, Arkansas in July 2006; National Poultry Waste Management Symposium in Springdale, Arkansas in October 2006, Presentation by Dr. Haggard at the University of Arkansas in November 2006.

The Tyson Defendants continue to search for additional responsive information to this Interrogatory and will supplement its response in the event additional information is identified.

INTERROGATORY NO. 9: Please state whether you are or ever have been a member of (a) Poultry Partners, (b) Poultry Federation, (c) United States Poultry & Egg Association, (d) National Chicken Council, (e) National Turkey Federation, (f) Southeastern Poultry & Egg Association, (g) National Broiler Council, and/or (h) Poultry Water Quality Consortium, and, if so, your years of membership and the names of your employees who represented you in the organization.

RESPONSE TO INTERROGATORY NO. 9: Objection. These interrogatories are unlimited with respect to time and as such are overly broad and unduly burdensome. Notwithstanding the foregoing objection the Tyson Defendants have attempted to determine whether they have ever been a member, the entire period of membership and the names of representatives from 2000 to the present: Interrogatory 9(a) No. Interrogatory 9(b) Yes, 2001 to the present, Mike Baker, Buddy Wray, Bob Pledger, Roy Slaughter, Archie Schaffer, Randy Smith, Patrick Pilkington, Greg Spencer and Jerry Moye. Interrogatory 9(c) Yes, 1950's to the present, Southeastern Poultry & Egg Association changed its name to United States Poultry & Egg Association in 1997, Bill Lovette, Donnie King and James Bell. Interrogatory 9(d) Yes, 1950's to the present, National Broiler Council became the National Chicken Council in 1999, James Bell, Greg Lee, John Lea, Bill Lovette, Bernard Leonard and Jerry Moye. Interrogatory 9(e) Yes, unable to determine dates of membership but is a current member, nominal member no representatives. Interrogatory 9(f) see response to 9(c). Interrogatory 9(g) see response to 9(d). Interrogatory 9(h) No.

INTERROGATORY NO. 10: Do you presently have or have you had since 1980 any direct or indirect ownership interest in any entity that raises / feeds poultry or owns poultry

in the Illinois River Watershed? If so, for each such entity please describe the interest in detail, including but not limited to the name of the entity, the nature of the interest in the entity, any other owners of the entity, the management structure and composition of the entity, the date when the interest in the entity began and (if applicable) when the interest terminated, if the interest terminated the reasons it terminated and what became of the interest, and the number of birds raised annually in the Illinois River Watershed by the entity.

RESPONSE TO INTERROGATORY NO. 10: Objection. The time frame for this request is over broad, unduly burdensome and seeks information which is irrelevant and not likely to lead to the discoverability of admissible evidence, see also objection to Interrogatory No. 3. Subject to and without waiving the foregoing objections, Yes. Tyson Poultry, Tyson Chicken and Cobb-Vantress all own poultry in the IRW. Tyson Poultry, Tyson Chicken and Cobb-Vantress are wholly owned subsidiaries of Tyson Foods. Information regarding management structure and composition of the Tyson Defendants can be found in the 30(b)(6) deposition of Read Hudson. Information regarding dates of incorporation of the Tyson Defendants can be found at Exhibit 21 to Tyson Foods, Inc.'s Form 10K filed with the United States Securities and Exchange Commission on November 21, 2007. That document may be found at www.sec.gov. As Plaintiffs are aware the Tyson Defendants do not track bird production by watershed. Bird production is organized by Complex. Information responsive to this inquiry can be determined by utilizing Tyson Foods, Tyson Chicken, Tyson Poultry, and Cobb-Vantress' Responses to Plaintiffs Interrogatory No. 1 and supplements thereto and the live production data previously produced at TSN116813SOK-TSN116834SOK, TSN116835SOK-TSN116891SOK, TSN116892SOK-TSN116937SOK, TSN107974SOK-107985SOK, TSN108155SOK-TSN108982SOK, TSN105983SOK-TSN111043SOK, as well the previously produced records identified by bates number in the columns titled "Flock Transfer Register,"

"Flock Profile Report," "Broiler Production Settlement by Grower," "Cost of Hens Sold" and "Sold Hen Statistics" set forth in the attached index.

INTERROGATORY NO. 11: Please describe in detail any involvement or role, direct or indirect, you had in the funding, research, writing, revision, publication or distribution (including the distribution to poultry growers under contract with you) of each and every edition / version of the "Poultry Water Quality Handbook," and state whether the "Poultry Water Quality Handbook" exists or ever existed in your files, or is or was ever in your possession.

RESPONSE TO INTERROGATORY NO. 11: The Tyson Defendants are unaware of any involvement or role in the Poultry Water Quality Handbook and have been unable to locate any version of same in their files.

INTERROGATORY NO. 12: Please identify (name, position, phone number, and last known address) all employees, past and present, with knowledge of (a) your policies, past or present, concerning the handling, storage, use, management, disposal and/or land application of poultry waste, (b) the propensity of poultry waste that has been land applied to run-off, and (c) any environmental or human health effects of poultry waste run-off.

RESPONSE TO INTERROGATORY NO. 12: The Tyson Defendants object to this interrogatory as overly broad and unduly burdensome in that it is not limited in time or geographic scope and could encompass an undeterminable number of Tyson Defendants employees who have worked in the area of poultry live production. As a result thereof the Tyson Defendants cannot identify all persons with the knowledge requested. Subject to and without waiving the foregoing objections: Interrogatory 12(a) John Askegaard, see Defendants Tyson Foods, Inc., Tyson Poultry, Inc., Tyson Chicken, Inc. and Cobb-Vantress, Inc.'s Rule 26(a) Initial Disclosures Section I.A. The aforementioned persons may only be contacted through counsel at Kutak Rock, LLP 214 West Dickson Street, Fayetteville, Arkansas 72701,

479.973.4200; Former employees: Preston Keller, Route 5 Box 1400 Stillwell, Oklahoma and Paul Hairston, 2240 Big Oaks, Fayetteville, Arkansas 72703; Interrogatory 12(b) the Tyson Defendants are not aware of responsive information to Interrogatory 12(b); Interrogatory 12(c) Mr. Patrick and Mr. Burr have knowledge regarding potential environmental effects of poultry litter.

INTERROGATORY NO. 13: Please state when you first communicated with your contract growers in the Illinois River Watershed about (a) best management practices, (b) waste management plans, (c) nutrient management plans, and/or (d) any concerns about the adverse environmental impact of the run-off / release / discharge of poultry waste that has been land-applied, and (e) the content of each of those communications.

RESPONSE TO INTERROGATORY NO. 13: The Tyson Defendants communicated to contract growers regarding the subject matter of inquires (a)(b)(c) and (d) with respect to the potential environmental effects of poultry litter in the late 1980's to Early 1990's. The Tyson Defendants have communicated to contract growers through the contract themselves, through services techs, grower meetings as well as manuals provided to contract growers.

INTERROGATORY NO. 14: Please identify each and every environmental study or investigation concerned with the environmental impact of the handling and/or disposition of poultry waste on water quality which you have been involved with or participated in, including but not limited to allowing or facilitating access to your operations, farms or property and/or the operations, farms or property of your contract growers, providing statistical or other kinds of information, answering questions, participating in surveys or granting interviews and/or allowing or facilitating your contract growers answering questions, participating in surveys or granting interviews, and discussing and/or reviewing the conclusions or results of such studies or investigations.

RESPONSE TO INTERROGATORY NO. 14: The Tyson Defendants are not aware of any involvement or participation in any environmental study or investigation concerning the environmental impact of the handling and/or disposition of poultry waste on water quality.

REQUEST FOR PRODUCTION NO. 1: To the extent you have not already produced them, please produce copies of all documents you relied upon in responding to each of the above interrogatories.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: Additional documents are being reviewed and prepared for production and will produced under separate cover.

REQUEST FOR PRODUCTION NO. 2: To the extent you have not already produced them, please produce copies of all materials you or your employees received at the seminars, conferences, workshops, symposia, meetings and task forces identified in response to Interrogatory No. 8.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2: Additional documents are being reviewed and prepared for production and will produced under separate cover.

REQUEST FOR PRODUCTION NO. 3: To the extent you have not already produced them, please produce copies of all reports or analyses received from Agri Stats, Inc. (or any of its affiliates) that relate, directly or indirectly and in whole or in part, to your, any of your contract growers', any other defendants', or any other defendants' contract growers' poultry operations or facilities that are located in whole or in part in the Illinois River Watershed, including but not limited to any annual, monthly and special reports.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: Objection. This request contains no time frame and as such is over broad and unduly burdensome. Furthermore, this request seeks information which is irrelevant and not likely to lead to the discoverability of admissible evidence. Cobb-Vantress does not participate in Agri Stats. Agri Stats information

with respect to the Tyson Foods, Inc., Tyson Chicken, Inc., and Tyson Poultry, Inc. operations is reported in the aggregate by Complex and not by watershed. As Plaintiffs are well aware, both Noel and Springdale complexes are located in part in the IRW and in part in other watersheds. It is not possible to discern from Agri Stats data with respect to Tyson Foods, Inc., Tyson Chicken, Inc. and Tyson Poultry, Inc., which data is related to the IRW, as such this information is not relevant and not likely to lead to the discoverability of admissible evidence.

REQUEST FOR PRODUCTION NO. 4: To the extent you have not already produced them, please produce copies of all documents, reports, data and/or summaries that you have provided to Agri Stats, Inc. (or any of its affiliates) that relate, directly or indirectly and in whole or in part, to your, any of your contract growers', any other defendants', or any other defendants' contract growers' poultry operations or facilities that are located in whole or in part in the Illinois River Watershed.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4: Objection. This request contains no time frame and as such is over broad and unduly burdensome. Furthermore, this request seeks information which is irrelevant and not likely to lead to the discoverability of admissible evidence. Cobb-Vantress does not participate in Agri Stats. Information with respect to Tyson Foods, Inc., Tyson Chicken, Inc., and Tyson Poultry, Inc.'s operations is reported to Agri Stats in the aggregate by Complex and not by watershed. As Plaintiffs are well aware, both Noel and Springdale complexes are located in part in the IRW and in part in other watersheds. It is not possible to discern from the data reported to Agri Stats from Tyson Foods, Inc., Tyson Chicken, Inc. and Tyson Poultry, Inc., which data is related to the IRW, as such this information is not relevant and not likely to lead to the discoverability of admissible evidence.

REQUEST FOR PRODUCTION NO. 5: To the extent you have not already produced them, please produce copies of all documents, reports, data and/or summaries, including source

materials and supporting data, that you have provided to the U.S.D.A. that relate, directly or indirectly and in whole or in part, to your, any of your contract growers', any other defendants', or any other defendants' contract growers' poultry operations or facilities that are located in whole or in part in the Illinois River Watershed.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5: Objection. This request contains no time frame and as such is over broad and unduly burdensome. Furthermore, this request seeks information which is irrelevant and not likely to lead to the discoverability of admissible evidence. Information reported by the Tyson Defendants to U.S.D.A is not reported by watershed. It is not possible to discern from the data reported by the Tyson Defendants to U.S.D.A which data is related to the IRW, as such this information is not relevant and not likely to lead to the discoverability of admissible evidence.

REQUEST FOR PRODUCTION NO. 6: To the extent you have not already produced them, please produce copies of all drafts / versions / editions of the "Poultry Water Quality Handbook" in your possession, as well as all documents referring or relating to the "Poultry Water Quality Handbook" or the creation of the "Poultry Water Quality Handbook."

RESPONSE TO REQUEST FOR PRODUCTION NO. 6: The Tyson Defendants are presently unable to identify any documents responsive to this request.

REQUEST FOR PRODUCTION NO. 7: To the extent you have not already produced them, please produce copies of all documents referring or relating to the Poultry Water Quality Consortium.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7: The Tyson Defendants are presently unable to identify any documents responsive to this request.

REQUEST FOR PRODUCTION NO. 8: To the extent you have not already produced them, please produce any lists or catalogues of published treatises, periodicals, pamphlets, books

and articles (including title, author, publisher, and date of publication) in your possession, custody or control that address (a) the land application of poultry waste (or any constituents thereof), (b) the run-off / release / discharge of poultry waste (or any constituents thereof) from land on which it has been applied to the environment, and/or (c) the environmental and/or human health effects or dangers of the run-off / release / discharge of poultry waste (or any constituents thereof) from land on which it has been applied to the environment.

RESPONSE TO REQUEST FOR PRODUCTION NO. 8: The Tyson Defendant are presently unable to identify any documents responsive to this request.

REQUEST FOR PRODUCTION NO. 9: To the extent you have not already produced them, please produce copies of all reports, disclosures, impact statements, assessments or similar materials pertaining to (a) the land application of poultry waste (or any constituents thereof), (b) the run-off / release / discharge of poultry waste (or any constituents thereof) from land on which it has been applied to the environment, and/or (c) the environmental and/or human health effects or dangers of the run-off / release / discharge of poultry waste (or any constituents thereof) from land on which it has been applied to the environment that you received from, turned over to, or exchanged with any buyer or seller of a poultry growing / feeding operation or received, turned over, exchanged or generated in connection with the sale or purchase of any poultry growing / feeding operation.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9: The Tyson Defendants are presently unable to identify any documents responsive to this request.

REQUEST FOR PRODUCTION NO. 10: To the extent you have not already produced them, please produce copies of any documents reflecting any direct or indirect ownership interest that you have or have had in the past 25 years in any entity that raises / feeds poultry or owns poultry in the Illinois River Watershed, as well as copies of documents relating to the nature of

the interest in any such entities, any other owners of any such entities, the management structure and composition of any such entities, the date when the interest in any such entities began and (if applicable) when such interests terminated, if such interests terminated the reasons they terminated and what became of the interests, and the number of birds raised / fed annually in the IRW by any such entities.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10: The Tyson Defendants object to this request as vague with respect to the type of documents the request seeks. Notwithstanding the foregoing objection, See response to Interrogatory No. 12 and Exhibit 21 to Tyson Foods, Form 10K filed with the United States Securities and Exchange Commission on November 21, 2007. That document may be found at www.sec.gov , search for ticker symbol TSN.

REQUEST FOR PRODUCTION NO. 11: To the extent you have not already produced them, please produce copies of documents reflecting your financial statements for fiscal years 2002 to the present, as well as any other documents reflecting your net worth for fiscal years 2002 to the present. For purposes of this request for production, the term "financial statement" includes, but is not necessarily limited to, balance sheets, statements of income, statements of equity position, statements of cash flow, and all footnotes.

RESPONSE TO REQUEST FOR PRODUCTION NO. 11: Tyson Foods, Inc.'s (of which Tyson Chicken, Inc., Tyson Poultry, Inc., and Cobb-Vantress, Inc are wholly owned subsidiaries) consolidated financial statements for fiscal years 2002 to the present can be found at www.sec.gov in each of its Form 10Ks filed with the United States Securities and Exchange Commission.

REQUEST FOR PRODUCTION NO. 12: To the extent you have not already produced them, please produce copies of all documents referring or relating to poultry waste generated at

your own poultry growing / feeding operations and/or poultry growing / feeding operations under contract with you in the Illinois River Watershed that has been transported out of the Illinois River Watershed (including but not limited to documents referring or relating to the identity of each operation that generated the poultry waste, the amounts of poultry waste that were transported out, where the poultry waste was transported to, who transported the poultry waste out, and who paid for the transport out).

RESPONSE TO REQUEST FOR PRODUCTION NO. 12: The Tyson Defendants have not identified additional documents responsive to this request.

REQUEST FOR PRODUCTION NO. 13: To the extent you have not already produced them, please produce copies of all documents listed on your Rule 26(a) disclosure in this case.

RESPONSE TO REQUEST FOR PRODUCTION NO. 13: The Tyson Defendants have not identified additional documents responsive to this request.

REQUEST FOR PRODUCTION NO. 14: To the extent you have not already produced them, please produce copies of all documents referring or relating to the Animal and Poultry Waste Management Center at North Carolina State University.

RESPONSE TO REQUEST FOR PRODUCTION NO. 14: The Tyson Defendants search for documents responsive to this request is ongoing and to the extent responsive discoverable documents are identified they will be produced.

REQUEST FOR PRODUCTION NO. 15: To the extent you have not already produced them, please produce copies of all documents referring or relating to any surveys / audits / reports of poultry growing / feeding operations owned by you or under contract with you in the Illinois River Watershed that concern or collected information about (a) the amount of poultry waste generated at such operations and/or (b) the disposition of poultry waste generated at such operations.

RESPONSE TO REQUEST FOR PRODUCTION NO. 15: The Tyson Defendants have not identified additional documents responsive to this request.

REQUEST FOR PRODUCTION NO. 16: To the extent you have not already produced them, please produce copies of all correspondence between you and your contract poultry growers in the Illinois River Watershed that concern (a) how many poultry houses the poultry growing / feeding operation has / had in operation, (b) how much poultry waste is / was being produced annually (or for a particular time period) per house or per growing / feeding operation, (c) the disposition of the poultry waste generated at the poultry growing / feeding operation, (d) the costs associated with handling / disposing of poultry waste generated at the poultry growing / feeding operation, and/or (e) any preferences of the poultry grower regarding the disposition of the poultry waste generated at the poultry growing / feeding operation.

RESPONSE TO REQUEST FOR PRODUCTION NO. 16: The Tyson Defendants have not identified additional documents responsive to this request.

REQUEST FOR PRODUCTION NO. 17: To the extent you have not already produced them, please produce copies of all documents reflecting or referring to your earliest, as well as all subsequent, communications with your contract growers in the Illinois River Watershed about (a) best management practices, (b) waste management plans, (c) nutrient management plans, and (d) any concerns about the adverse environmental impact of the run-off / release / discharge of poultry waste that has been land-applied.

RESPONSE TO REQUEST FOR PRODUCTION NO. 17: The Tyson Defendants have not identified additional documents responsive to this request.

REQUEST FOR PRODUCTION NO. 18: To the extent you have not already produced them, please produce copies of your earliest communications with employees at your company-owned and company-managed poultry growing / feeding operations in the Illinois River

Watershed about (a) best management practices, (b) waste management plans, (c) nutrient management plans, and (d) any concerns about the adverse environmental impact of the run-off / release / discharge of poultry waste that has been land-applied.

RESPONSE TO REQUEST FOR PRODUCTION NO. 18: The Tyson Defendants search for responsive documents to this request is ongoing, presently the Tyson Defendants have not identified documents responsive to this request.

REQUEST FOR PRODUCTION NO. 19: To the extent you have not already produced them, please produce copies of all documents referring or relating to NCC / US Poultry CAFO Questionnaire, including but not limited to copies of the Questionnaire itself, all completed Questionnaires, all responses to the Questionnaire by you or your contract growers located in the Illinois River Watershed and all reports, analyses or compilations of such Questionnaire responses.

RESPONSE TO REQUEST FOR PRODUCTION NO. 19: The Tyson Defendants have not identified additional documents responsive to this request.

REQUEST FOR PRODUCTION NO. 20: To the extent you have not already produced them, please produce copies of all documents referring to or relating to any progress reports to the Arkansas Department of Pollution Control and Ecology and Arkansas Soil and Water Conservation Commission for assessment of the progress and success of the Best Management Practices Program. By way of example, but without limitation, this request includes but is not limited to progress reports resulting from the "Environmental Agreement" one or more of the Tyson Defendants entered into in or about 1992 with contract growers in the Illinois River Watershed.

RESPONSE TO REQUEST FOR PRODUCTION NO. 20: The Tyson Defendants have not identified additional documents responsive to this request.

REQUEST FOR PRODUCTION NO. 21: To the extent you have not already produced them, please produce copies of all documents referring or relating to any mapping, imaging or depiction of land application of poultry waste, of phosphorus levels, of nitrogen levels and/or of nutrient levels in the Illinois River Watershed, including but not limited to any thermal imaging, aerial photography, satellite imagery, electromagnetic conductivity, or other mapping or imaging technologies.

RESPONSE TO REQUEST FOR PRODUCTION NO. 21: Objection. The Tyson Defendants object to this request to the extent it seeks any information that its attorneys or consultants may have collected since the inception of the lawsuit. Notwithstanding the foregoing objection the Tyson Defendants have not generated or received maps, images, or photographs depicting land application of poultry litter or phosphorus or nitrogen levels in the IRW.

**Additional Requests for Production to Each of the Tyson Defendants
(Tyson Foods, Tyson Chicken, Tyson Poultry & Cobb-Vantress) Only**

REQUEST FOR PRODUCTION NO. 22: To the extent you have not already produced them, please produce copies of all documents referring or relating to Tyson Complexes 1 thru 16 and their operations during the time when you owned them, including but not limited to all documents that concern poultry production, soil testing, poultry waste handling, poultry waste storage, poultry waste land application, poultry waste hauling, best management plans relating to the spreading or disposal of poultry waste / litter, farm management plans, nutrient management plans, the run-off / release / discharge of poultry waste, as well as all documents that reflect the identity of persons employed at Tyson Complexes 1 thru 16 during the time that you owned them.

RESPONSE TO REQUEST FOR PRODUCTION NO. 22: The Tyson Defendants search for additional responsive documents is ongoing. No additional responsive documents have been identified at present.

REQUEST FOR PRODUCTION NO. 23: To the extent you have not already produced them, please produce copies of all documents referring or relating to the Tyson Research Farm and its operations during the time when you owned it, including but not limited to all documents that concern poultry production, soil testing, poultry waste handling, poultry waste storage, poultry waste land application, poultry waste hauling, best management plans relating to the spreading or disposal of poultry waste / litter, farm management plans, nutrient management plans, the run-off / release / discharge of poultry waste, as well as all documents that reflect the identity of persons employed at the Tyson Research Farm during the time that you owned it. For purposes of this request for production, the term "Tyson Research Farm" means the Tyson research facility which encompasses approximately 230 acres of real property (including appurtenances and structures on that property), located approximately one mile north of the Tyson Foods Corporate Headquarters on Johnson Road, Springdale, Arkansas.

RESPONSE TO REQUEST FOR PRODUCTION NO. 23: The Tyson Defendants search for additional responsive documents is ongoing. No additional responsive documents have been identified at present.

REQUEST FOR PRODUCTION NO. 24: To the extent you have not already produced them, please produce copies of all documents obtained or reviewed regarding any real and/or personal property interests acquired by you from Hudson Foods, Inc., including but not limited to documents referring or relating to due diligence reviews or examinations, environmental reviews, surveys or inspections, soil tests, poultry barn capacity, poultry production figures, poultry waste production figures, poultry waste disposal methods and practices, and contracts or agreements with and identities of third party vendors used for poultry waste disposal.

RESPONSE TO REQUEST FOR PRODUCTION NO. 24: The Tyson Defendants search for documents responsive to this request is ongoing and in the event responsive discoverable documents are identified they will be produced.

REQUEST FOR PRODUCTION NO. 25: To the extent you have not already produced them, please produce copies of all documents created or produced regarding your sale of real and/or personal property interests in poultry growing complexes in Oklahoma to Steve Butler, d/b/a Green Country Farms, including but not limited to documents referring or relating to due diligence reviews or examinations, environmental reviews, surveys or inspections, soil tests, poultry barn capacity, poultry production figures, poultry waste production figures, poultry waste disposal methods and practices, and contracts or agreements with and identities of third party vendors used for poultry waste disposal.

RESPONSE TO REQUEST FOR PRODUCTION NO. 25: The Tyson Defendants search for documents responsive to this request is ongoing and in the event responsive discoverable documents are identified they will be produced.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on the 7th day of December 2007, I electronically transmitted the attached document to the following ECF registrants:

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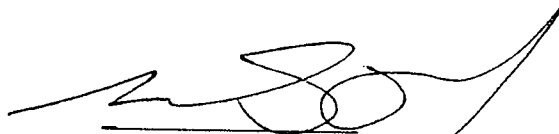
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COUNSEL FOR CARGILL, INC. AND CARGILL TURKEY PRODUCTION, LLC

I also hereby certify that I served the attached documents by United States Postal Service, proper postage paid, on the following who are not registered participants of the ECF System:

C. Miles Tolbert
Secretary of the Environment
State of Oklahoma
3800 North Classen
Oklahoma City, OK 73118
COUNSEL FOR PLAINTIFFS



Michael R. Bond

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

W. A. DREW EDMONDSON, in his)
capacity as ATTORNEY GENERAL)
OF THE STATE OF OKLAHOMA and)
OKLAHOMA SECRETARY OF THE)
ENVIRONMENT C. MILES TOLBERT,))
in his capacity as the)
TRUSTEE FOR NATURAL RESOURCES))
FOR THE STATE OF OKLAHOMA,)
)
Plaintiff,)
)
vs.) 4:05-CV-00329-TCK-SAJ
)
TYSON FOODS, INC., et al,)
)
Defendants.)

VOLUME I OF THE VIDEOTAPED
30(b)(6) DEPOSITION OF TIMOTHY MAUPIN,
produced as a witness on behalf of the Plaintiff in
the above styled and numbered cause, taken on the
21st day of July, 2008, in the City of Tulsa, County
of Tulsa, State of Oklahoma, before me, Lisa A.
Steinmeyer, a Certified Shorthand Reporter, duly
certified under and by virtue of the laws of the
State of Oklahoma.

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918-587-2878

EXHIBIT

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1 A At which location?

2 Q Any.

3 A Yes. The Virginia growers are --

4 Q I'm sorry, I thought I said IRW. Let's move
5 to the IRW. You've already told me what is going on
6 in Virginia. My concern is what accountability or
7 tracking of land application for Cargill contract
8 growers is occurring in the IRW.

04:43PM

9 MS. HILL: Object to the form.

10 A We don't track the poultry litter on our
11 contract producers' farms. That's part of their
12 site-specific plan, and they're responsible for
13 nutrient management and litter storage on the farms.

04:43PM

14 Q Okay. I've been given a notice that we've got
15 to change tapes, so let's stop and do that.

04:44PM

16 VIDEOGRAPHER: We're now off the Record.
17 The time is now 4:44 p.m.

18 (Following a short recess at 4:44 p.m.,
19 the deposition was recessed at 5:01 p.m.)
20
21
22
23
24
25

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

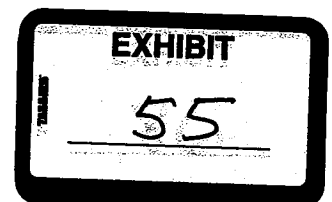
STATE OF OKLAHOMA, <i>et al.</i>)	
)	
)	
Plaintiffs)	
)	
v.)	Case No. 4:05-cv-00329-GKF(PJC)
)	
TYSON FOODS, INC., <i>et al.</i>)	
)	
Defendants)	

**SIMMONS FOODS, INC.'S ANSWERS TO
STATE OF OKLAHOMA'S INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS
OF MARCH 17, 2009**

Comes now the Separate Defendant, Simmons Foods, Inc. ("Simmons"), and for its Answers to State of Oklahoma's Interrogatories and Requests for Production of Documents of March 17, 2009, states and alleges as follows:

INTERROGATORY NO. 1: Please identify each instance (including, where available, specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application) in which poultry waste generated at your poultry feeding operations, or at poultry feeding operations under contract with you, has been land applied within the IRW as fertilizer, identifying all witnesses to the application and all documents evidencing it.

ANSWER: Simmons objects to Interrogatory No. 1 on the grounds that the Plaintiff has already exceeded the number of interrogatories allowed under Rule 33 of the Federal Rules of Civil Procedure. Simmons also objects to Interrogatory No. 1 on the grounds that it is overly broad and unduly burdensome in that it is not limited to a reasonable time period. Subject to and without waiving the foregoing objections, Simmons does not have information concerning any



“waste” generated at any “poultry feeding operation.” Simmons does not have any “poultry feeding operations” located within the Illinois River Watershed. To the extent Plaintiff is seeking the location that poultry litter from a farm under contract with Simmons may have been land applied, Simmons does not have that information other than in the form of “Grower Surveys” which are voluntary and have only been used in the past few years. Those documents have already been provided to Plaintiff as SIM AG 31653 – SIM AG 31707 and SIM AG 32199 – SIM AG 32232. For poultry farmers located in Oklahoma, Plaintiff can obtain information concerning land application of poultry litter from its own records related to poultry farmers and poultry litter applicators, all of which is licensed, permitted, and regulated by Plaintiff.

INTERROGATORY NO. 2: Please identify each instance (including, where available, specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application) where poultry waste generated at your poultry feeding operations, or at poultry feeding operations under contract with you, has been land applied within the IRW which has not resulted in any run-off or leaching, identifying all witnesses to the application and all documents evidencing it.

ANSWER: Simmons objects to Interrogatory No. 2 on the grounds that the Plaintiff has already exceeded the number of interrogatories allowed under Rule 33 of the Federal Rules of Civil Procedure. Simmons also objects to Interrogatory No. 2 on the grounds that it is overly broad and unduly burdensome in that it is not limited to a reasonable time period. Simmons further objects to Interrogatory No. 2 because it is overly broad and unduly burdensome in that it attempts to shift the burden of proof from Plaintiff to Simmons and tries to force Simmons to prove a negative. Plaintiff has the burden of proof in this case, not Simmons.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 1: Please produce all documents identified in the foregoing interrogatories.

ANSWER: To the extent Simmons had any responsive documents they have already been provided.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 2: Please produce all documents evidencing land application of poultry waste from your poultry feeding operations, or those of your contract growers, in the IRW in which the land application was used as fertilizer, including but not limited to the specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application.

ANSWER: Simmons objects to Request for Production of Documents No. 2 on the grounds that it is duplicative of numerous other Requests for Production of Documents propounded by Plaintiff. To the extent Simmons had any documents that are responsive to this request they have already been provided to Plaintiff. Furthermore, for poultry farmers located in Oklahoma, Plaintiff can obtain information concerning land application of poultry litter from its own records related to poultry farmers and poultry litter applicators, all of which are licensed, permitted, and regulated by Plaintiff.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 3: Please produce all documents evidencing land application of poultry waste from your poultry feeding operations, or those of your contract growers, in the IRW in which the land application of poultry waste has not resulted in any run-off or leaching, including but not limited to the specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application.

ANSWER: See Response to Interrogatory No. 1, Response to Interrogatory No. 2,
Response to Request for Production No. 1, and Request for Production No. 2

Dated this 16th day of April, 2009.

SIMMONS FOODS, INC.,

By: /s/ Vicki Bronson
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CERTIFICATE OF SERVICE

I hereby certify that on 16th day of April, 2009, I electronically transmitted the foregoing document to the following counsel of record via email:

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/s/ Vicki Bronson
Vicki Bronson

1 IN THE UNITED STATES DISTRICT COURT FOR THE
 2 NORTHERN DISTRICT OF OKLAHOMA
 3
 4

5 W. A. DREW EDMONDSON, in his)
 6 capacity as ATTORNEY GENERAL)
 7 OF THE STATE OF OKLAHOMA and)
 8 OKLAHOMA SECRETARY OF THE)
 9 ENVIRONMENT C. MILES TOLBERT,)
 10 in his capacity as the)
 11 TRUSTEE FOR NATURAL RESOURCES)
 12 FOR THE STATE OF OKLAHOMA,)

13 Plaintiff,)
 14)

15 vs.)

16 4:05-CV-00329-TCK-SAJ
 17)

18 TYSON FOODS, INC., et al,)
 19)

20 Defendants.)
 21)
 22)
 23)
 24)
 25)

26 - - - - -
 27 THE VIDEOTAPED DEPOSITION OF
 28 BERNARD ENGEL, PhD, produced as a witness on
 29 behalf of the Defendants in the above styled and
 30 numbered cause, taken on the 15th day of January,
 31 2008, in the City of Tulsa, County of Tulsa, State
 32 of Oklahoma, before me, Lisa A. Steinmeyer, a
 33 Certified Shorthand Reporter, duly certified under
 34 and by virtue of the laws of the State of Oklahoma.

35 TULSA FREELANCE REPORTERS
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EXHIBIT

56

1 the Arkansas Natural Resource Commission, which is
2 responsible for oversight of poultry growers?

3 A Yes.

4 Q Okay. Were you provided with copies of the
5 materials that your attorneys received from that
6 process?

01:35PM

7 A Yes, and I believe there are a couple -- I
8 don't have those in my pile, but I believe they're
9 now called the Arkansas Soil & Water Conservation
10 Commission, that provided several spreadsheets for
11 Benton and Washington Counties that identify -- you
12 found one.

01:36PM

13 Q Go ahead. That identified what?

14 A Could I see one of those?

15 Q Sure.

01:36PM

16 A I don't think I've got a copy handy. So you
17 can pick any one of those is fine.

18 Q Let's start with what I've marked as
19 Deposition Exhibit 10. What is Deposition Exhibit
20 10, Mr. Engel?

01:37PM

21 A So Exhibit 10 is a spreadsheet from the
22 Arkansas Soil & Water Conservation Commission that
23 provides some data for Washington County and, as I
24 recall, these are provided for specific years, so I
25 don't know which year this one happens to be for.

01:37PM

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1 It looks like that didn't make its way onto the
2 spreadsheet when that was moved into this format.
3 So this identifies a watershed code, where waste is
4 generated, provides estimates of number of acres on
5 which some of that was spread in some cases here,
6 and then provides other information about how much
7 is stored, how much is fed, but that looks to be a
8 very small number, how much is transferred and
9 other. One of the challenges with this data was
10 that -- that it's been impossible to date to get
11 clear definitions as to what some of these columns
12 mean, transferred in particular.

01:37PM

01:38PM

13 Q Well, what about with regard to tons
14 generated; do you have any confusion about that
15 column and information?

01:38PM

16 A No. So this is -- this is this agency's
17 estimate of tons generated based on user-supplied --
18 producer-supplied information and, as I recall,
19 there's a document that they provided in response to
20 some questions, they being the Arkansas Soil & Water
21 Conservation Commission, that raises doubts in their
22 minds about the validity of some of the tons
23 generated here.

01:39PM

24 Q We'll get to what I think is that document,
25 although I don't necessarily agree with your

01:39PM

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01:39PM

01:39PM

01:39PM

01:40 PM

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1 together some of these data sources was used.

2 Q And that method being what we've been
3 discussing on Exhibit 27?

4 A Yes, that would be the one we've been
5 discussing on Exhibit 27.

01:40PM

6 Q So would it be fair to say you considered this
7 information and rejected it?

8 A It was not used. The other qualifier I would
9 place is that this was received only fairly
10 recently, so --

01:40PM

11 Q Let me stop you there. When did your lawyers
12 ask for it?

13 MR. PAGE: Object. If you know.

14 A I have no idea.

15 Q Okay. You're not suggesting by your comment
16 that the State of Arkansas withheld information, are
17 you, that had been requested by the State of
18 Oklahoma in connection with this lawsuit?

01:41PM

19 A My understanding is that this had been
20 requested some time ago and that only recently had
21 it been received.

01:41PM

22 Q Okay. So you are suggesting that the State of
23 Arkansas delayed in the production of information
24 that was requested by the State of Oklahoma?

25 MR. PAGE: Objection. That's not what he

01:41PM

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1 stated.

2 A I didn't say that.

3 Q That's the way I interpreted it. You didn't
4 mean to suggest that?

5 A I didn't mean to suggest that. 01:41PM

6 Q Okay, all right. Let's keep going through
7 Arkansas records. Deposition Exhibit No. 11 is more
8 material received from the Arkansas Soil & Water
9 Conservation Commission that were included in the
10 materials that you produced in this case, Mr. Engel, 01:41PM
11 and this appears to relate to Washington County as
12 opposed to Benton County?

13 A Well, the prior one was Washington, and this
14 must be a different year.

15 Q It was. Okay. So once again, although you're 01:42PM
16 not certain as to what year, this is a record
17 provided by the Arkansas Soil & Water Conservation
18 Commission for the Washington County area by
19 watershed of tons of poultry litter generated;
20 correct? 01:42PM

21 A These are estimates of tons generated, yes.

22 Q Okay, and the fact that these records also
23 identify the bird type associated with particular
24 farms and the number of houses on those farms;
25 correct? 01:42PM

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1 A Yes.

2 Q Okay. Did you consider any of this
3 information as part of your computations in arriving
4 at the 370,000 ton estimate of litter generation?

5 A So, again, this data was reviewed and 01:42PM
6 considered but not ultimately used because again in
7 my professional judgment, we didn't have enough
8 consistent information by piecing some of these
9 other things together to provide an accurate
10 estimate and so, thus, we used the technique that 01:43PM
11 we've been discussing affiliated with Exhibit 27.

12 Q Okay. Let's keep going. I think we're
13 getting a little repetitive, I apologize, but
14 Deposition Exhibit 12 again were materials produced
15 by you in connection with your work in this case. 01:43PM
16 It's another dataset from the Arkansas Soil & Water
17 Conservation Commission, this time in connection
18 with Benton County; correct?

19 A Yes.

20 Q Same type of data we've been discussing for 01:43PM
21 Washington county?

22 A Correct.

23 Q And once again with regard to this information
24 provided in Deposition Exhibit 12, you did not use
25 any of that information in your calculation of 01:44PM

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1 estimated litter production for the Illinois River
2 watershed?

3 A Correct.

4 Q This document is Deposition Exhibit 13. It's
5 a little different format. Can you explain what
6 Deposition Exhibit 13 is?

01:44PM

7 A Yes. So this is from the Arkansas Natural
8 Resources Commission. This provides estimates of
9 poultry litter generated and then a whole series of
10 other categories as to where it may or may not be by
11 county within Arkansas.

01:44PM

12 Q And did you specifically request this
13 information in Deposition Exhibit 13?

14 A My attorneys requested this information.

15 Q Did you use the information reflected in
16 Deposition Exhibit 13 for any part of your analysis?

01:45PM

17 A Not directly, and let me do indicate, though,
18 that indirectly, you know, there are a few checks
19 and balances here that this helps with. So if you
20 look at Benton County, this estimates that 182,000
21 tons of poultry litter waste were generated in the
22 year of this report. This is labeled 2007, but I
23 believe this is a 2006 number, and in Washington
24 County it indicates 145,000 tons of poultry waste
25 were generated in that county for the year reported.

01:45PM

01:45PM

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1 So indirectly, you know, when we do eventually
2 arrive at this 347,000 tons, documents like this
3 provide some confidence in the values that we've
4 computed with what we believe is a better technique.

5 Q Are Benton and Washington County, Arkansas 01:46PM
6 entirely within the Illinois River watershed?

7 A No.

8 Q Okay. So how, sir, does this county-wide
9 number provide you with confidence that what you
10 calculated as an Illinois River watershed number is 01:46PM
11 reasonably accurate?

12 A Well, if one looks at the approximate
13 proportions of those counties within the Illinois
14 River watershed and assumes that same proportion of
15 waste may have been generated in the Illinois River 01:46PM
16 watershed as to the area, sums those up, looks at
17 other supporting evidence from the Oklahoma side of
18 things, one quickly realizes that the waste, any way
19 you calculate it, is, you know, probably well in
20 excess of 300,000 tons. 01:47PM

21 Q That analysis, which I'm not sure if you've
22 conducted or not, we'll get to that in a moment,
23 assumes proportional distribution of farms within
24 and within outside the watershed based on the
25 percentage of a county that's in the watershed; 01:47PM

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1 correct?

2 A One could refine that using the percentage of
3 pasture within and outside of the watershed as well,
4 and that -- that's probably a much better indicator
5 of presence of poultry.

01:47PM

6 Q Have you undertaken that analysis?

7 A Which analysis?

8 Q The one you just described of taking the
9 numbers from the Arkansas Natural Resources
10 Commission, looking at the percentages of pasture in
11 the counties that are covered by this reporting and
12 then arriving at an estimate of litter generation?

01:47PM

13 A I've not done that calculation carefully.

14 Q Well, have you done it uncarefully?

15 A I guess I've done that mentally approximately,
16 so it's not written down and, you know, I've not
17 proportioned out these exactly and summed them up
18 and then found all the corresponding data on the
19 Oklahoma side to do that.

01:47PM

20 Q But, Mr. Engel, given the fact that the State
21 of Arkansas reports litter generation in the
22 documents that we just reviewed by watershed as
23 opposed to just by county, why would you even go
24 through the process that you and I have just been
25 discussing of trying to take a county-wide number

01:48PM

01:48PM

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1 and then make some mathematical assumptions to
2 arrive at an estimate; couldn't you just add up the
3 county -- I mean the watershed numbers in the State
4 of Arkansas' report?

5 A It's a good point you cut. So I guess if we 01:48PM
6 go back to these other documents and do the analysis
7 there, one could sum those up directly within the
8 Illinois River watershed. I have not done that.

9 Q You've not done that?

10 A I have not done that. 01:48PM

11 Q Okay, and is there a reason you've not done
12 that?

13 A Again, because -- to be consistent in the use
14 of our data and to apply things consistently, this
15 kind of data was not available in Oklahoma. So the 01:49PM
16 technique that ultimately was used, again, in my
17 professional judgment I think is a better technique
18 and provides a better estimate.

19 Q You mentioned consistency, and my question
20 there, sir, is, have you truly been consistent in 01:49PM
21 your treatment of records and information from
22 Oklahoma agencies versus Arkansas agencies in your
23 analysis?

24 A Well, the documents from each state are not
25 the same. So, therefore, it would be very difficult 01:49PM

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1 to do things consistently or treat any documents
2 consistently.

3 Q Isn't it true, sir, that in your analysis,
4 you've made consistent use of records and
5 information obtained from the Oklahoma Department of
6 Agriculture, but you've not made use in your
7 computations of records and data available from the
8 State of Arkansas?

01:49PM

9 A For the ultimate estimate of the 347,000 tons
10 of litter production, I guess there would have been
11 some Oklahoma documents in there, but those
12 documents were not to identify the amount of
13 production. Those documents were used in
14 identifying the integrator.

01:50PM

15 Q Okay. Well, let's take it step by step. You
16 did use ODAFF records to identify integrators on the
17 Oklahoma side; correct?

01:50PM

18 A That was one of the pieces of information used
19 in identifying integrators.

20 Q To your knowledge did Mr. Fisher use records
21 obtained from the State of Arkansas to perform a
22 similar analysis on the Arkansas side of the
23 Illinois River watershed?

01:50PM

24 MR. PAGE: Objection, assumes materials not
25 in evidence. I'm not aware of any information.

01:50PM

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